

1784

845

LIBRARY OF CONGRESS



0 015 995 884 A

10

Conservation Resources

Lig-Free® Type I

pH 8.5, Buffered

A B D U C T I O N  
OF  
JUAN FRANCISCO REY:

A

NARRATIVE OF EVENTS FROM HIS OWN LIPS,

FROM

THE TIME HE LEFT HAVANA, IN COMPANY WITH VILLAVERDE AND FERNANDEZ,  
UNTIL HIS RETURN TO THE UNITED STATES, EMBRACING A RELATION  
OF WHAT OCCURRED ON HIS FIRST DEPARTURE FROM HAVANA;  
THE INTRIGUES AND VIOLENCE BY WHICH HIS ABDUCTION  
WAS ACCOMPLISHED IN NEW ORLEANS; HIS VOYAGE  
BACK TO HAVANA ON THE MARY ELLEN; HIS  
IMPRISONMENT THERE, AND HIS RELEASE AND  
RETURN TO THE UNITED STATES,

TOGETHER WITH

A COMPILATION OF THE TESTIMONY

IN THE

PRELIMINARY INVESTIGATION BEFORE JUDGE BRIGHT AND COMMISSIONER  
COHEN, AND A REVIEW OF THE SAME.

---

COMPILED AND EDITED  
BY DANIEL SCULLY.

---

NEW ORLEANS, DECEMBER, 1849:  
PRINTED FOR THE PUBLISHER AT "THE TRUE DELTA" OFFICE, POYDRAS ST.

Price, Twenty-five Cents each.

FIG 84  
T 45

---

Entered according to Act of Congress in the year 1849, by DANIEL  
SCULLY, in the Office of the Clerk of the Eastern District of Louisiana.

---



# Prefatory.

---

THE narrative, contained in these pages, of the ABDUCTION OF JUAN FRANCISCO GARCIA, or—the name by which he is now universally known in the United States—JUAN FRANCISCO REY, which he assumed on his first arrival in this country, is drawn up from notes of conversations had with him on the subject, six successive days, each interview being of three or four hours' duration.

The narrative form has been adopted, because of its facility in composition; and for the reason that it is the most agreeable to the reader, and easiest understood.

Rey, almost entirely unacquainted with the proceedings in his case, further than the isolated fact of a prosecution having been instituted, and ignorant of the great interest attaching to every incident connected with his abduction, could not be expected to make a continuous statement himself, embracing all the facts of public concernment. It was therefore a task of no little difficulty—and hence the length of time occupied—to obtain from him a history in detail, without resort to what is technically known at the Bar as “leading questions,” which, it is obvious, it would have been improper to resort to under the circumstances. The facts delivered by him disjointedly have been placed consecutively, and the first person singular adopted to avoid involution. The matter is thus laid before the Public as it came from Rey's own lips, except that condensation is brought into requisition.

From the length of time allowed Rey for the recital, and the latitude he had, many important matters pertinent to the great national question involved in the abduction, were elicited, which would scarcely be obtained in a trial of the parties accused, under a strict application of the rules of evidence. By this publication, therefore, the Public will be possessed more completely of the facts than it would be even were the case to come before the United States Circuit Court, which is now scarcely pro-

bable, since the United States District Attorney, constituting himself umpire between the equal divisions of the Grand Jury, has apparently abandoned the prosecution.

The Editor, in his interviews with Rey, was fortunate in having the assistance of Mr. William Kane Wanton of this city, an accomplished linguist, who, with an intimate knowledge of the Spanish language and its various dialects, had the advantage of the English being his vernacular; combinations which vouch for the accuracy of the interpretation.

The fidelity of the narrative, and its coincidence with the testimony of Rey before the Grand Jury, is attested by the fact that the District Attorney for the United States used it, and placed it in the hands of the Foreman, H. R. W. Hill, Esq.

DANIEL SCULLY.

*New Orleans, December 17, 1819.*

# THE NARRATIVE.

---

## CHAPTER I.

*Allow Villaverde and Fernandez to escape—Leave the Prison with them—Sail for the United States—Arrival at Apalachicola—Villaverde embarks for Savannah, and Fernandez and myself for New Orleans—Become acquainted with Ayala and Llorente—Leave “La Corrina” and move to Morante’s—Intrigues and threats of Ayala and Llorente—Visited by the Spanish Consul—Forced to go to his house and sign papers—Prepare to go to Vera Cruz—Llorente continues his intrigues.*

I was under jailer or turnkey of the *Real Carcel*, or Royal jail, in Havana, on the 31st March last, to which office I had been appointed by the *Junta Municipal* of Havana about five months before. There were two prisoners in the jail, Cirillo Villaverde and Vicente Fernandez, both confined in the same cell. Villaverde was charged with being implicated in the plan, then supposed to be maturing among the Creoles of the Island, to sever the connection with Spain, and either establish an independent government or annex themselves to the United States of North America. The accusation against Fernandez was fraudulent bankruptcy. Having, in the discharge of my duties, occasion to visit their cell that day, Fernandez spoke to me of assisting them to escape, promising me protection and other advantages, should I do so; and after some conversation on the subject I acceded to their proposition. We left the prison together that night at half-past 7 o'clock, and, Villaverde having separated from us in the streets, Fernandez and I went to a certain house, where we remained concealed three or four days; Villaverde, as I understood, being secreted in another part of the city. Fernandez and

I sallied from our place of concealment on the night of the 4th April, and embarked on board an American vessel at the wharf of San Francisco. Villaverde came on board about the same time, and that night the vessel sailed for Apalachicola, where we arrived in seven days. The third day after our arrival Villaverde took passage on a steamer for Savannah, and Fernandez and myself, five days later, sailed for New Orleans, where we arrived safe after a short passage.

For about a month after our arrival here we boarded at the house of an American lady, whose name I do not recollect, on Canal Street. At the expiration of that time Fernandez removed to the boarding house of Callejas on Royal Street, and by his directions I went to live at "*La Corrina*," a segar shop on St. Charles Street, kept by his brother José Fernandez. There I remained until the 8th of June. In the mean time I had become acquainted with José Ramon de Ayala, who, some days before my leaving there, called me out of the shop and invited me to take a walk. He led me to a coffee house at the corner of St. Peter and Levee Streets, and there questioned me as to whether I knew where Fernandez had gone? It was the first intimation I had heard of his having left the city, and of course I answered in the negative. "I know where he is gone," said Ayala, and immediately he set about asking me if I did not know some persons in Havana, who assisted in his escape, to whom he (Ayala) could write for money to assure my silence. I replied I wished no such letters written, and knew no person to whom an application of that character could be made. He insisted that I did know those persons, and importuning me to give him their names, I rid myself of him by saying I would reflect on the subject and give him an answer the next day. We then left the coffee house, and separated at the door, he taking

the direction of the *Place d'Armes*, and I walking down St. Peter Street. Turning into Royal Street, I met Fulgencio Llorente, who had been introduced to me some time before by Ayala. He addressed me abruptly:

"You are in great danger."

"Why?" said I.

"Did you see Ayala?"

"Yes."

"Well, then it is all right."

And with this he passed on, terminating the conversation as abruptly as he commenced it. Two days after I met Ayala on the streets. He at once introduced the subject upon which we had been last speaking, and asked me if I had brought to my recollection any of those names? I told him I had not; that I could not recollect any. "Well," he observed, "I know the names of those who aided the escape of Fernandez and Villaverde myself." I expressed my surprise. He told me he had written letters, such as he had spoken of, to two of those persons, and producing the letters requested me to sign them, which I refused. Having repeatedly declined signing them, he at last told me in an ominous manner I had better do it. This brought to my mind the mysterious monition of Llorente, and I was reflecting upon it when Llorente himself stepped up. Ayala informing him of my obstinate refusal, he joined him in his importunities, and both warned me "You had better sign those letters; if you do not you will see a great deal of trouble." I asked for an explanation, but they refused it, and at last I entered a store with them and put my name to the letters.

Thenceforth wherever I met them, together or separately, they advised me to leave Fernandez's store (*La Corrina*); they said I was running a great risk in stopping there, and that before Vicente Fernandez left the city he

had been heard to say it would be necessary to make away with me. They alarmed my fears, and, on their suggestion, I left "*La Corrina*" and went to the house of Mr. José Morante, in the Third Municipality, to live. Shortly after moving to Mr. Morante's they endeavored to persuade me to change my residence again, and on one occasion Ayala, showing me a key, said he had rented a room for me, and I would be safer by going to lodge in it. I did not think their reasons sufficient for moving and declined their offer. They likewise urged upon me to make a demand upon Mr. José Fernandez, for five or six hundred dollars, which they sought to make me believe he would be obliged to pay in the absence of his brother, and this proposition I also rejected, telling them that I had no claim whatever upon José Fernandez.\*

Dangers were constantly boded to me now in the conversations of Ayala and Llorente, which left me in a state of perpetual alarm. My spirits gone, and a prey to melancholy, I was visited with sickness. While suffering severely from my ailment, Ayala and Llorente entered my room together, one day. I was pleased to see them, hoping they might lighten my afflictions by their sympathy, but my feelings were soon changed, for scarcely had they passed the threshold when they ordered me to rise and dress myself, and threatened punishment for disobedience. I told them I was too sick to leave the bed, and craved them to spare me. Thereupon Ayala commenced walking up and down the room, drawing his coat, on the left, aside and slapping his hand significantly on a dagger, he wore in the waistband of his pantaloons, every time he passed me.

---

\* It is difficult to imagine what their motive was for this suggestion, unless it was to effect a complete estrangement between Rey and José Fernandez, by presenting to the latter an insolent demand for money from the former. The subsequent course of those worthies favors the hypothesis.

Presently both left the room together, and in a few minutes Llorente returned alone. Seating himself on a chair at the head of my bed he buried his face in his hands, and apparently sobbing, he observed, "Do not be astonished that I give way to my feelings." A quarter, perhaps half, an hour elapsed, Llorente still venting his apparent grief, when a coach stopped in front of the house. Llorente instantly rushed out, and returning told me a friend was waiting to see me outside. I requested him to invite my friend in. A stranger then entered in company with Ayala, who, together with Llorente, introduced him as a Doctor, and sat down, one at the foot of my bed and the other at the head. The stranger saluted me, and looking me full in the face said "I am not a Doctor, Sir—I am the Spanish Consul." I replied that I had not the honor of knowing him. "I do not come here," he added, "as Consul, but as a good friend of yours." He then took a seat, and, as he unbuttoned his frockcoat, I perceived a pistol stuck in his waistband. On seating himself he again addressed me, and besought me to go with him, assuring me that his mission was a friendly one. I refused so long as I was only requested, but at last Ayala rose, drew his dagger from the sheath, and slapping it on the table said I should go. "Come with us, if you will," joined in the Consul and Llorente, "but if you do not we will make you." The tone and manner in which these threats were uttered, were unmistakeable, and I submitted. I dressed myself, and the three led me to the coach at the door, into which they followed.

We were driven to a house entirely unknown to me, and where it is situated I do not now know.\* On driving

---

\* This was the Consul's house, as testified to in the examination before the committing magistrates by Ayala and Mr Duquesne, the Consul's Chancellor.

up to the door I was told to get out, and was conducted by them into the house. Without stopping I was hurried through a corridor, up one flight of stairs, and into a room on that floor. As we passed through the corridor, Ayala took a paper from his pocket and handed it to the Consul. The moment we entered the room the Consul held this paper towards me and told me I should sign it. I urged that I did not know what it was. "That is of no consequence to you," he answered, "sign it, Sir." I reluctantly obeyed his mandate and, having done so, was about to peruse the paper, when he grasped it from my hand. Ayala and Llorente then warned me never to make known that I had seen the Spanish Consul; that I should always know and speak of him as a physician who had visited me, and the Consul himself cautioned me never to reveal to mortal aught in relation to my interview with him, or that I had been at his office. I made no reply, and there was a pause of some minutes. The Consul again addressing me, and now in a very impressive manner, said, "You may say what you please, but remember, Sir, the police have their eyes on you, and wherever you may utter a word in relation to this matter, it will come to my ears, and I tell you again beware, Sir." He next told me he wished me to return to Havana, and pledged himself that nothing should happen me there, but this I refused in the most positive manner.

I was then dismissed. Ayala left the house with me, and accompanied me to Mr. Morante's house. There we parted. I entered my room, and throwing myself on my bed, was lost for hours in reflections upon the strange events of that day and its antecedents. In vain I endeavored to penetrate the mystery surrounding me. I suppose from the excitement, and the trials to which I had been subjected that day, my malady became worse at

night, and it was several days before I was able to leave the house again. The next morning Mr. Morante asked me who the stranger was that had visited me in his absence. I told him it was a Doctor. He asked me several questions in relation to the object of the visit, which, as I supposed he might be in league with the men I had reason to believe were my enemies, I answered evasively. He at last insisted upon knowing who the Doctor was, and, having no excuse for denying him a direct answer, I told him the Doctor was the Spanish Consul. That same day, after Morante had left, Llorente again visited me. The man's presence was now abhorrent to me, and, I presume, perceiving this, he endeavored to regain my confidence. He visited me every day after, while I was confined to the house. He made anxious inquiries after my health, and entertained me with conversation by relating such news as interested me. Occasionally referring to the affair of the Consul, he assured me the Consul's motives, his own and Ayala's, though apparently acting with harshness, were friendly; and the act I had been compelled to execute would ultimately enure to my benefit. Although thus reassured, and at times believing he was sincere, there was yet a lurking suspicion I was the object of some dark conspiracy. Perceiving this, probably either in my manner or expression, he would tell me the Consul still kept his eye on me; that the plans he had in view for my good rendered it necessary that I should remain in New Orleans, and should I endeavor to follow Fernandez, who, I had been informed, had gone to Vera Cruz, I would find it impossible to obtain a passport, as the Consul had cautioned the Mexican Consul not to give me one.

As soon as I recovered sufficiently to walk out I thought me of all that had transpired, and, satisfied that evil was brooding over me, I determined upon leaving

New Orleans, and escaping the toils of my enemies. Where should I fly, was the next question. Should I go to any other part of the United States I would be a stranger and utterly friendless among a people whose language I neither spoke nor understood. Were I in Mexico I would be in a country, the people of which were inimical to Spain, and whose language was my own. I therefore determined upon going there, and fixed upon Vera Cruz as the most desirable place, being an important seaport, and supposing, if, as had been reported to me, Fernandez was there, he might assist me. This was about the 26th or 27th of June. I at once communicated my design to José Fernandez, who informed me that whenever I wished to go to Vera Cruz, Mr. Louis Villerte, the agent of his brother, Vicente Fernandez, would advance me a sum sufficient for my expences. Two or three days after, I went alone to the Mexican Consul's office, and, bearing in mind the information of Llorente that the Spanish Consul had taken precautions to close this avenue against me, I asked for a passport in the name of Francisco Jimenez, which was promptly furnished, and I paid two dollars for it, out of the little stock of money I had. It was my wish to go to Vera Cruz in the British steamer, but not knowing what day she would arrive at Mobile I thought it preferable to go direct in a sailing vessel from this port. I communicated my intention to Mr. Yeoward, the clerk of José Fernandez, and he undertook to negotiate for my passage. The next day Mr. Yeoward informed me the brig Titi was up for Vera Cruz, and he would secure a berth on her. Matters thus stood until the 5th July, Mr. Yeoward stating to me, in the intermediate time, that he was endeavoring to cheapen the price of passage: forty dollars being asked, and he believing he could get it for thirty.

Pending this negotiation my desire to leave was stimu-

lated by a conversation I had with Llorente. Standing at the door of Mr. Morante's chocolate shop, Llorente approached me and signified that he wished to speak with me. I told him to go on. "Not here," said he, "come to the corner." I did so, and we entered the Cosmopolitan coffee house at the corner of Conde and St. Ann Streets, a few doors from the chocolate shop. Leading me away from the people in the coffee house, he told me there was a writ of arrest out against me.

"What for?" I asked.

"I believe they are going to send you to Havana."

"Who is going to send me there?"

"I believe the Spanish Consul."

"For what reason?"

"Because if he can get you back to Havana he, no doubt, will obtain a Cross of Honor. Now, you accompany me whenever you go abroad. I have the writ"—and he took a paper from his pocket, which he exhibited to me, but I did not understand the language—"I have the writ," he continued; "as long as it is in my possession you are safe, and, as I know all the authorities in the city, no harm shall come to you."

He then advised me to go to the Consul's house, and see him in regard to the matter. I became angry at such a proposition, after his telling me the course the Consul was pursuing towards me, and expressed my indignation freely. "I make the suggestion," said he, "because I know the Consul has received a letter, favorable to your interests, from the Captain General, and I am sure if you call on him he will convince you of your error in refusing to return." I replied that I had no favors to ask either of the Consul or the Captain General, and had not the remotest idea of going back to Cuba. Stepping into the street, as we approached the chocolate shop, he enjoined upon me

to place no confidence in any one but himself, "for you know I am your friend, and do not mention a word of what we have been speaking about to Morante, because he is a man of evil disposition and may do us harm." With this he left me and I returned to the chocolate shop. This was early on the morning of the 3d July. The next day he called on me again, and taking me out of the shop he renewed the conversation on the subject of visiting the Consul. Finding me much displeased with his pertinacity we separated, not however, without a renewal on his part of friendly assurances, and again claiming for the Consul the best motives in all his actions concerning me. As we were about to part he laid his hand on his heart and pledged his word of honor that if I returned to Havana nothing would be done to me. Firmly refusing to be guided by him in this matter, he dropped the subject and asked me where I intended going? I said I did not know. "Look well to it," he then advised me; "the Consul has learned you intend going to Vera Cruz, and he is enraged." I declared I had no such intention, although I had my passport in my pocket at the time, and added that if I left New Orleans I should go to Lima.

## CHAPTER II.

*The eventful 5th of July—Dine with Llorente and a stranger—Llorente insists upon accompanying me home—Walk along the Levee—The Trap—Seized by several men and carried on board the Mary Ellen—The schooner sails—The abduction consummated—Attempts to escape—The voyage to Havana.*

On the evening of the 5th July, about 5 or half-past 5 o'clock, Llorente came to the chocolate shop of Mr. Morante, where I had been since morning, and asked me to take a walk. I pleaded fatigue as an apology for declining. "Well," said he, "at all events you can dine with me."

I begged to be excused also from this; as I invariably ate at Mr. Morante's house, and was indisposed to eat elsewhere. Urging me with much apparent warmth of friendship I consented, and accompanied him to a sumptuously furnished restaurant on St. Peter Street, fronting the *Place d'Armes*.\* On entering the establishment we seated ourselves at a table, and as we took our seats a gentleman with moustaches approached us and saluted Llorente. A few words having passed between them in French, he asked me in the same tongue if I spoke the language (*Parlez vous Francais?*) I answered him in the negative. He took his seat at the table and dined with us. The dinner was a capital one and Llorente seemed bent on his utmost to please me. His conversation was principally directed to the stranger, to whom he spoke in French, which I neither spoke nor understood. He frequently pressed me to drink wine, but fearful of becoming intoxicated I always objected, and limited my indulgence to a glass of claret and water. Dinner over, the stranger left us, as I thought, very discourteously, without the usual kind expression at the parting of friends. After he left I asked Llorente who he was. Without telling me his name, he cautioned me to be prudent in speaking to him. This I observed was unnecessary as I spoke no French, and I supposed he did not speak Spanish. Llorente answering that was very true, added that we would have to await the return of our late companion, as he was gone in search of intelligence interesting to us both, and would be back at 7 o'clock. We waited until the Cathedral clock struck that hour, and no one appearing we remained half an hour later. I now told Llorente I could wait no longer and would go home. We started, and, on reaching Royal Street, Llorente

---

\* Victor's Restaurant, as was proved by witnesses, who had seen Morante and Ayala together there, on the evening of the 5th July.

invited me into a house opposite the garden, in the rear of the Cathedral to pay a visit, and, after some conversation with the lady of the house, who spoke Spanish, and a gentleman named Muñoz, we made our adieus. Passing out through the hall, we met Madam Llorente, whom I had seen before at Calleja's. We exchanged some pleasantries on my wearing spectacles, which I had done since my illness, in consequence of my eyes having become weak, and after a few minutes conversation Llorente bade her good bye, telling her he was going to accompany me in a walk. As we reached the street, I intimated to him that I was going directly home and it was unnecessary for him to walk so far. He politely offered to accompany me, complimenting me upon the pleasure my society afforded him, and suggesting at the same time that the evening was delightful and the most agreeable road to Mr. Morante's house would be along the Levee. Directing our steps to the Levee, we strolled down the river side until we came to a coffee-house, in front of which we met our dinner companion, who, speaking now in imperfect Spanish expressed himself delighted at meeting us, and invited us to take a drink with him. We entered the coffee-house, and being asked what I would take I called for lemonade. Llorente asked me what I would have in it? I answered whatever he thought best. He spoke then to the bar-keeper who produced a bottle, and Llorente taking it and pouring a quantity of it into my lemonade said "This is the bottle from which I usually take my drink." While we were drinking, a conversation was kept up in English between our moustached friend and another man who stood in the door, with a beard under his chin, who wore a white hat, during which the latter frequently pointed to the interior of the coffee-house. Having all left the coffee-house, when about eight or ten steps from the door, in the direction of the

Levec, towards which Llorente was leading me, I asked where he was taking me to, and, receiving no answer, I wheeled about to return to the side walk and find my way home. Just as I turned my back to the Levee, a man wearing a light summer coat, cottonade pantaloons and a white hat, seized me with a powerful grasp by the arm. Crying out to the "traitors" (*traidores*) not to molest me, I suddenly wrenched my arm from the man's grasp, and as I made an effort to escape I heard a voice in Spanish speaking from the coffee-house door say: "Put the rascal on board; the Stars of the American Flag are of no use to him now."\* On the instant five men took hold of me, by the legs, body and arms—one of whom, who held my right arm, gagged me, by clapping his hand on my mouth, when I cried for assistance. I was borne in this way across the Levee and along the wharf, and was pitched on board a vessel lying at the pier head. When I got up my first impulse was to jump ashore and I was about to make the leap, when I was seized by two men, who I subsequently found to be the Steward, called Domingo, and one of the crew, and forced by them down into the Cabin. As they pushed me down the booby hatch the vessel was cast off and floated into the stream.

In a moment I seized the whole truth. Every scheme and wile of my enemies was laid bare. I was the dupe of Ayala and Llorente. Through their instrumentality, under the direction of the Consul, I was a victim about to be offered to the vengeance of the Captain General of Cuba. Were there yet no means of escape? Death was certain if I went on that vessel. I was an expert swimmer—I determined to try my powers in the element that separated me from life and liberty—I was stripping myself and had taken off my coat and waistcoat, when two men walked

---

\* This is a literal translation of the words as repeated by Rev.

into the Cabin. "What" said one of them, whom I afterwards found to be Captain McConnell, the master of the vessel, "are you going to throw yourself overboard!" I said I was not, that I was very sick and wished to go on deck and cool myself. I went on deck, the two ascending the ladder after me. My thoughts bent on escape I surveyed the scene, and alas! desperate as was my situation, I shrunk from the attempt. We were in the middle of the river, in the rear of a Steamer, which was towing two other vessels—one on each side—and ourselves some distance astern; the night had become intensely dark; nothing was to be seen of the shore, but the many lights of the receding city, now far behind us, and the hazard was more frightful as I knew full well the terrific force of the current I would brave. Thus I abandoned what I then deemed my last hope of returning to New Orleans. Soon I was attacked with vomiting and vertigo, and an unaccountable stupor came over me. Returning to the cabin, I was again followed by the Captain and his companion, the former of whom pointed out my berth and I undressed and laid down. Finding the oppressive heat aggravated my sickness I rose in about ten minutes and found Captain McConnell and his companion seated opposite each other at the table, conversing in English. Addressing myself to the Captain I asked him if he was the master of the vessel. Receiving an answer in the affirmative I desired to know if the Spanish Consul had been on board. He said the Consul was on board about 7 o'clock that evening. I was now confirmed in all my suspicions. I was the victim of the Consul's wiles. He had superintended my abduction, up to the very last moment. It was the Consul who was in the back room of the coffee-house, when in the conversation with the individual who had dined with Llorente and myself the man standing at the street door pointed to the rear

of the building; it was the Consul, who, standing in the same door, a minute after ordered the ruffians to seize me, and proclaimed the American flag was no longer my protection.

I resumed my queries to the captain:

“Have you any documents for the Captain General?”

“No, but I have letters for his Secretary.”

“Have you received a passport for me?”

“No.”

“Where are we going to?”

“To Havana.”

“I will give you thirty doubloons if you will put me ashore and let me return to New Orleans.”

“Have you any money?”

“I have.”

“It cannot be done.”

“Why?”

“Well I can’t tell you. If I do it I shall get into a scrape with them. [*Forque mejoderan a mi.\**]”

“How will you get into a scrape?”

He turned on his heel and walked off without answering this question. I returned to my berth and laid there until morning, when, being much better, I went on deck. The sea was before us. We were at the mouth of the river. A boat, pulled by several oars, put off from the shore, and putting a man on board dropped astern, and as our sails were unfurled she was towed in our wake. The man who boarded us immediately took charge of the vessel, and by this I knew him to be a pilot. When the vessel got under a fair headway we were called to breakfast, and the captain, the chief mate, the man whom I have frequently spoken of as the companion of the captain,

---

\* This does not admit of a literal translation. Its disgusting obscenity forbids it. The idea is conveyed however.

who in the course of the voyage I saw was a passenger, and heard him called Robinson—these and myself descended to the cabin, leaving the pilot to direct the schooner. I ate very little, my stomach being weak and disordered, and during the meal not a word was addressed to me. Thus I was permitted without interruption to meditate upon another scheme for escape, which had suggested itself. This was to jump into the pilot's boat as soon as it came alongside and appeal to him for protection by my actions, if he could not comprehend my language. When we returned to the deck I eagerly sought an opportunity for a moment's conversation with the pilot, apart from the officers, intending, if he understood Spanish, to disclose my situation to him. This was denied me, for the captain engrossed his attention from the moment we stepped on deck, until the pilot made signals for the men in the boat to haul alongside. As they were doing this I prepared to jump in the boat when the pilot got in, and she was cast off. In order that if the attempt were made to detain me, there might be as little as possible on my person to hold by, and with the view of being incumbered as lightly as the occasion would possibly admit, should I fall into the river in the struggle I anticipated, I carelessly took off my coat and laid it down. The captain, apparently penetrating my design, perhaps from my eyes being too intently fixed on the boat, approached, and with a scowl on his face ordered me below. I obeyed, and as I slowly and reluctantly stepped down the companion way I saw the pilot leave the vessel, and his boat drop astern.

We were now at sea. In twelve days we were in sight of the Moro Castle. Nothing of consequence occurred during the voyage. The only persons on board I found, who could converse in Spanish, were the captain and the steward Domingo, the former of whom was sullen and

morose to me, and the latter I could have no association with, since I knew he was one of the two who prevented me from jumping ashore when the schooner was leaving the wharf. I therefore was very little on deck. I suffered greatly, too, for the want of clothes, and the only change I had during the passage was an old cotton shirt, the captain ordered the cook to give me. Occasionally, the captain indulged me in the luxury of a segar, but frequently admonished me to smoke lightly, as he had only a few in his locker.

On the 18th July we hove in sight of the celebrated Moro. As we neared it I asked Captain McConnell if he intended taking me back to New Orleans. "Go down into the cabin," said he, "and don't let them see you"—at the same time waiving his hand in a manner indicating he wished no farther conversation. Supposing that he referred to the authorities of the Island, in speaking of "them," I kept myself, as he directed, closely confined to the cabin, while in quarantine on board the *Mary Ellen*, and never went on deck except at night.

### CHAPTER III.

*Transferred to the Andrew Ring—Visit from the Port Captain—Warnings from a Spanish Naval Officer—Communication from the Captain General, with orders to write a letter to the Spanish Consul—Visit from the American Consul—Ordered ashore—Taken before the Captain General—Imprisoned in the Real Carcel—Communicate with my friends from the Prison—Interviews with the Captain General—The American Consul interferes in my behalf—Release from Prison—Return to the United States.*

After being six days in quarantine, the *Mary Ellen* sailed for New Orleans. As they were heaving the anchor, Capt. McConnell observed, "they are coming for you," and casting my eyes in the direction he was gazing I saw a

boat in the distance, rowing towards us. "Dress yourself," he added, and "get ready; you see now I cannot take you back to New Orleans." I had cherished hopes from his telling me to keep the cabin, that he purposed concealing my presence from the authorities, and bringing me back to New Orleans, but his words drove me back into despair. Incensed at his trifling with my feelings by his vague speeches, I charged him "how can you take me back, when you first bought me and have now sold me?" He repeated the order to go down and get myself ready. I went below, and as I had no clothing other than was on me, my preparations were completed, when I had washed myself. On reaching the deck again the boat of the schooner was alongside, and I was ordered by the captain to go into it. I obeyed in silence, and was rowed by one of the crew called John and the second mate, to an American brig lying at anchor, in quarantine, four or five hundred yards from the *Mary Ellen*.

About ten minutes after I was put on board the brig, the boat which I have already spoken of, as having seen in the distance, came alongside, and a person who appeared to command came aboard. He asked me my name. I informed him it was Juan Francisco Garcia y Rey. No other question being asked, our visitor was about to return to his boat, when I took the liberty of asking him to take a letter to a friend, who I hoped would cause some clothes and segars to be sent to me, and at the same time I communicated to the commander the distress I was in for the want of clean garments. Without answering me, he spoke in English to the captain of the brig, and, as I supposed from his gestures I was the subject of his conversation, I asked him if he had been giving any instructions to the captain in relation to me. He said he had instructed the captain not to let any communication of mine go ashore

unless taken in his (the commander's) boat, as the quarantine regulations required that all letters sent from vessels from the United States should, before being sent to the city, be sprinkled with *chloruro*. I then hastened down into the cabin and scratched a few hurried lines to an acquaintance, Don Juan San Juan, at the rail road depot, begging him to see a friend in Havana, and ask him to send me some clothing and segars. The commander waited until I delivered the letter to him and then put off in his boat.

On the 24th July I was sent aboard this vessel. I found my situation perhaps even more irksome and disagreeable than on the *Mary Ellen*, for, although I could have no objection to my fare or treatment, there was not a soul on board who understood a word of Spanish, and I was entirely shut up in myself. On the 26th, while sitting aft on the taffrail watching the movements of a boat in which an officer with a brilliant uniform was seated, the boat approached the brig, and passing close under the stern, the officer addressed me.

"By order of the Captain General you will take good care not to reveal a word of what you know, and say nothing about your being taken away by force from New Orleans."

"What is the matter?"

"Nothing. Nothing will be done to you if you do not reveal anything."

He then passed off, and returned to the shore. During our brief conversation I observed he was a naval officer, and wore two epaulettes, indicating that he held the rank of captain.

The same afternoon the government boat with the same commander who visited me the first day I was on board, and who I learned was the Port Captain, came alongside, and handed me a letter addressed to Pedro Murga y Ro-

meo sea Juan Garcia ; informed me it was from the Political Secretary,\* and that the instructions contained in it must be instantly obeyed. I read it. It was afterwards taken from me, and I therefore cannot give a literal copy, but its contents were substantially as follows :

“ Write without a moment’s delay to the Spanish Consul in New Orleans, intimating to him that your voyage to Havana was voluntary, for it will be better for you and for him to say so. Enclosed you will find a draught of the letter as you are to write it. Address it to the Spanish Consul, and I will forward it. As to your clothes (they had opened my letter I saw by this), when you come on shore you will know where they are. You have but a few days longer to remain in quarantine.”

This communication was signed “By order of the Captain General—Crispen Ximenez Sandoval.” I perused the letter several times, and was at a loss to know what to do. While revolving the matter in my mind the Port Captain manifested some impatience, and at last signified that he wished me to go into the cabin with him. Before going down he spoke to some one of the crew in English, who followed us down with pen, ink and paper. As he laid the writing materials on the table the Port Captain assuming an imperious manner, ordered me to copy the draft enclosed in Señor Sandoval’s letter, and to set about it at once. I copied the draft as instructed, and having addressed the letter to the Consul, delivered it to the Port Captain,† who returned to his boat, and was rowed ashore.

On the afternoon of the 27th the government boat came

---

\* Crispin Ximenez Sandoval.

† The letter written by Rey was offered in testimony by the defence, during the investigation before Judge Bright and Commissioner Cohen, but was ruled out because the statements in it were not sworn to, and because no witness could be procured who would testify it was Rey’s writing.

out again, in company with another boat pulled by five oars, in the stern sheets of which sat an elderly gentleman and a young man. Both boats being brought to alongside the young man rose and interrogated me as nearly as follows as I can recollect :

“ Is your name Juan Garcia Rey ? ”

“ It is Juan Garcia.”

“ Were you the turnkey of the jail ? ”

“ I was.”

“ Do you wish to return to the United States ? ”

“ No.”

The young man was apparently about to address another question to me, when the Port Captain said, “ Mr. Consul, you have no authority to put the questions you are asking that man.” Nothing more was said to me. In a few seconds the boats were off. It flashed upon me that the elderly gentleman in the strange boat was the American Consul ; that the young man who interrogated me was his secretary, and that the Consul came prepared to offer me his protection if I had unbosomed myself to him. I cursed my stupidity, but what could I have done ? I did not suppose I was in the presence of the American Consul until the interview was closed, and, even if I did, there was the Captain of the Port during the whole time, directly under me, and ever and anon looking at me with a portentous frown, reminding me of the warnings I had received to be silent in relation to my abduction. As the boats left the Consul’s was some twenty or thirty yards behind the other, and at every opportunity, when I thought those in the leading boat were not looking at me, I made signs to him to return, but, I suppose, no one observing me, they passed unnoticed.

I had been for some time almost indifferent to my fate. An uninterrupted contemplation of the darkest side of the

prospect had prepared me for the worst, but now I saw that there were those who had interested themselves in me, and the reflection that it was only my own want of nerve and presence of mind that stood in my way when there was a chance for escape, nearly set me mad. I went below, however, and addressed a letter to the Consul, briefly informing him that I had been taken forcibly from New Orleans, and explaining the reasons I had denied wishing to return to the United States. This I determined, if no other opportunity offered, to give to the Port Captain when he next visited the brig, for although there was scarcely a hope it would ever reach the Consul, it was my last resort. I dated this letter "On board the Terrible," because I took that to be the name of the vessel from seeing an engraving of a brig in a storm, under which was inscribed the word "Terrible," suspended in the cabin.\*

During the night I had a nervous attack, that completely prostrated me, and although somewhat better

---

\*Here is the letter Rey wrote on this occasion. A copy of it was transmitted to the United States by General Campbell, the American Consul at Havana, and has been published in the newspapers:

"Señor Consul of the United States, I am called Juan Garcia Rey. I was forced by the Spanish Consul from New Orleans. I seek refuge under the American flag, and wish again to return to the United States.

"JUAN GARCIA.

"ON BOARD THE TERRIBLE, July 27th, 1849.

"P. S. I have come by force, the Spanish Consul having taken me on a false order from the Recorder of the Second Municipality, and forcibly shipped me at nine o'clock at night, taken me from the house of Don José Morante. For this reason I desire you to be my protector and send me back again, for if you don't they will shoot me.

"JUAN GARCIA REY.

"ON BOARD OF THE TERRIBLE.

"I did not speak frankly to you because the Captain of the Port was present.

"(A true copy) EL CONDE DE ALCOY."

the next morning, and able to go on deck, I was not entirely composed until the following night. While I was suffering under this attack, the captain of the brig was assiduous in his attentions, and his kindness of manner did much to restore me to my usual health. The next morning as the Captain of the Port was passing, I hailed him and delivered into his hands the letter I had written to the American Consul.

The morning after the American Consul's visit a friend passed near the brig in a boat, and as he rowed by, speaking to me, he said I had done wrong in not accepting the offer of the American Consul, and that when I got ashore I would fare very badly. That or the next day I wrote another letter to the American Consul, determined to keep it about my person, prepared to take advantage of the first favorable opportunity to put it in the hands of some person who there was a probability would deliver it.

On the morning of the 30th July, about 7 o'clock, the government boat again visited us, in company with another boat, in the former of which was the naval captain I have already spoken of and in the latter a *Teniente Comisario Gobierno* (Lieutenant of the Government police,) who in coming aboard showed me an order from the Political Secretary, Señor Sandoval, ordering me to go ashore with the lieutenant and accompany him to the Captain General. I was yet under the American flag, and though respect for it had failed to protect me from violence and outrage, I still clung to it with a lingering hope that delay might bring relief. I refused to obey the order, urging my unfitness to appear in the presence of the Captain General, so disgustingly offensive as I was then attired. The naval officer observed: "But the brig is about to obtain *pratique*,"\* and you cannot remain on board." I positively refused to leave the vessel until supplied with clothes, and retreated to the cabin. The Commander and the lieutenant followed me. Both urged me to go on shore, with assurances that I was only required to go before the Captain General and would be liberated immediately after. I was uselessly putting myself in the lion's mouth, they added, by refusing, for, most assuredly, if I persisted I would bring upon myself the vengeance of the Captain General. I consented to go, and was again cautioned to keep my lips sealed in relation to my affair, should I meet any acquaintances in passing through the city. I went into the lieutenant's boat, and we landed at Paula's wharf, leaving the Government boat at the quarantine anchorage. On the way the lieutenant amiably communicated to me "They are afraid of you here, because they imagine you are under the protection of the American flag.

Shortly after leaving the wharf, in company with the lieutenant, I observed a friend, in whose fidelity I had reason to place unbounded confidence, lingering behind us. I made a signal with my hand, behind my

\* Permission to hold intercourse with the inhabitants of Havana.

back, for him to approach, and as he did so I drew from my waistband, unperceived by my companion, the last letter I had written to the Consul. My friend brushed by us, I held the letter to him ; he seized it, thrust it in his pocket and passed on, without appearing to recognize me.\* After partaking of some refreshment in a *Café*, the lieutenant conducted me to a volante, in which we were driven to the *Quinta de los Molinos*, the country residence of the Captain General, a short distance from the city.

We arrived at the *Quinta*, about half-past 7 or 8 o'clock. My arrival was announced, and orders were at once given to admit me. The *Teniente* and myself were ushered into the hall where I found a gentleman dressed in civilian's clothes. Hearing the lieutenant address this personage as His Excellency, apprised me that I was in the presence of the Captain General. He opened on me as an inquisitor :

"Are you Garcia ?"

"I am, your Excellency."

"When this occurrence took place," (referring, I supposed, to the escape of the prisoners,) "why did you not communicate it to me, for then you would not have got into any difficulty ?"

"I did not communicate it to your Excellency, because I was taken to a house I did not know, which I could not, and did not leave until the evening we went on board the vessel and sailed for New Orleans."

He then gave instructions to send for Gallono, the *Asesor*,† and the notary, both of whom shortly after entered, and the examination was resumed, the notary recording my answers :

"How did the escape of Villaverde and Fernandez take place ?"

"I let them out of the prison to take a walk."

"Do you know who the persons, were implicated in their escape ?"

"No one, but myself, for no other person was connected with it."

"How did you go through the streets when you left the prison ?"

"We walked together arm in arm."

"What street did you take ?"

"La Calzada de San Lazaro."

\* This letter the Consul received directly, without its having passed through the hands of the Cuban authorities. With the exception of the reports received by the Consul through the New Orleans papers, which he looked upon as unfounded, after his interview with Rey at the Andrew Ring, this was the first information he had received in relation to the abduction. Upon this letter the consul based his correspondence with the captain general, which ultimately terminated in the release of Rey, after the consul had been refused an interview with him, in a most insolent note from the captain general, and not until, if letters from Havana may be credited, the captain general received despatches from the Spanish Ambassador at Washington, informing him of the intense excitement the affair had created in the United States, and in view of the probable consequences, should the surrender of Rey to the demand of the Americans be refused, advised his Excellency to give Rey his liberty.

† The Government lawyer, whose duty assimilates to that of a prosecuting attorney with us, and who is allowed to sit on the Bench with the Judge.

" Did the prisoners attack you with arms, in order to effect their escape ?"

" They menaced me, and I was threatened with a dirk."

" Was it the prisoners or some other persons, who thus attacked you ?"

" The prisoners menaced me first, and then some other person unknown to me, commanded me, with a dirk in his hand."

" When they escaped did you remain with that unknown person ?"

" Yes, he conducted me to the house, where, in company with Fernandez, I remained four days, but I knew neither the house, nor any body in it, except Fernandez."

" What sum of money did they give you ?"

" They gave me nothing."

" During the time you were in that house, did they not offer you money ?"

" They promised me \$12,000."

" Did you not know what causes were pending against Villaverde and Fernandez ?"

" I did not."

" Do you know nothing more of this matter than what you have related ?"

" I do not."

" Do you know the Señora de Blanco ?"\*

" I have only seen her once ; that was at night, and I cannot say that I know her."

" Where did you see her ?"

" I saw her in the *Calzada* (very wide street) *de Velasquin*, in company with Fernandez."

" Do you know Don Juan de Escauriza ?"

" No."

" Did the keeper of the prison have any hand in this escape ?"

" He had not."

It is needless to say, my position being understood, that all I had said was not true. I, of course, endeavored to save myself, and at the same time studiously avoided compromising the friends of Villaverde and Fernandez. An order was then written by Gallano, to confine me in the *Real Carcel*, of which I was formerly the under keeper. The order, which was read to me, directed that I should be placed in a cell and not allowed to communicate with anybody.

The same Lieutenant of police conducted me to the prison, and on arriving there I was put in a cell about three feet and a half wide, and twelve feet long, in which I found nothing but a few boards on the stone

\* The lady of Fernandez's uncle, the head of the house of Blanco & Co., of which firm Fernandez was a member.

floor, for my bed, a bucket of water and a barrel for vulgar uses. As the turnkey showed me into the cell, I requested that some one of the prisoners might be allowed to keep me company and relieve the monotony of confinement. He said he would speak to the keeper and the same day a negro of very offensive person and insulting demeanor, with scarcely a rag to cover his nakedness was put in the cell with me. He remained a few days and was then removed to another part of the prison. I remained in the cell until the 6th of August, seven days, without anything of interest occurring. No change of clothing had yet been given to me. I was in the filthiest condition, and my food was always boiled rice or red beans, a dish of either of which was served to me in silence, twice a day, together with a small piece of stale bread only fit for the dogs, (*un pan que dan a los perros.*) I was not, however, entirely without solace. On the fifth or sixth day of my imprisonment, a person, who is privileged to visit the prisoners at certain periods,\* privately cautioned me if a loaf of bread were sent me to be careful not to break it. It had some satisfaction in dwelling on this.

On the morning of the 6th of August, I was again summoned to appear before the Captain General, and on arriving at the outer door, I found a corporal and four soldiers with fixed bayonets waiting to escort me. We proceeded to the *Quinta* or foot, the keeper of the prison accompanying me. I was ushered in to the same Audience Hall in which I was first introduced to the Captain General. Handing me a letter, which I examined, he asked:

“Do you recognize this letter, which you wrote to the American Consul?”

“I do, your Excellency.”

“Are you mad to write such things to the American Consul? With what object did you write to him?”

“In order that he might send me back to the United States.”

“Then, even in my presence you will also say you want to return to the United States?”

I made no answer. During the brief silence that followed, Gallano and the Notary entered, and the latter took me into another room, leaving the Captain General and Gallano in the Hall. In a few minutes we returned, and the Captain General retiring, observed, “Gallano you will continue these proceedings and if any difficulty arises send for me.” Returning abruptly, he said to me, “ah, you have a letter from Señor Sandoval, written when you were in quarantine; let me see it.” I drew the letter from my pocket and presented it to him. He read it, thrust it in his bosom,

---

\* Rey does not wish to be more definite in regard to who this person is, lest the Cuban authorities might punish the individual.

and was walking out of the hall, when I suggests to him that I ought to be permitted to keep that letter. Wheeling round, with a frown on his face, "What!" said he, "No Sir, I shall keep this letter."

He then left the hall, and Gallano took up the examination.

"Have you written this letter (the letter to the American Consul) from fear of your personal safety, or from the fear of any other proceedings against you?"

"I wrote it because an individual, in passing the vessel I was last on in quarantine said I had done very wrong in not accepting the offer of the American Consul, and warned me when I got ashore I would fare very badly."

"Who was that individual?"

"I do not know."

No more questions being put to me I asked whether I could not be permitted to see the Captain General, Gallano desired to know what I wished to see him for. "That," I said, "I shall tell him myself." He left the hall, and in a very short time the Captain General returned with him. Winking at Gailano the Captain General said to him, in a contemptuous tone, "What does he want, Gallano?" "I do not know, I am sure," was the reply; "he must tell your Excellency himself." Then addressing the Captain General I expressed a hope that his Excellency would allow me to have communication with my friends from the jail. "Well," said he, "we will see about that," and turning to Gallano and again winking at him, added, "what do you think of it, Gallano?" "That," replied Gallano, "will be as your Excellency pleases; but for my part I should not allow it." His Excellency addressing me said:

"You see, Garcia, it cannot be done. You will now be taken to the *Castillo del Principe*."<sup>\*</sup>

"I would prefer, your Excellency, if I am allowed a choice, being returned to the Real Carcel."

"Well, we will send you back to the Real Carcel, but you are not to hold communication with anybody. Before you go I want to know from you again why you wrote that letter to the American Consul?"

"Because, your Excellency, I wished to be sent back to the United States."

"Then, if the American Consul were here now would you repeat the same thing to him, would you?"

I was silent, and he continued:

"You were in the habit of carrying a pistol in New Orleans—what for?"

---

\* A prison outside the Havana, between which and the *Real Carcel* there is no difference as to the character of the prisoners, or its strength.

"Merely for my own protection, your Excellency. I had no evil designs against anybody. It was merely to defend my life."

"Do you know one Morante?"

"I do."

"Was you not sick at his house?"

"I was."

"That Morante is a scoundrel, and he never can come back here."

"I don't know about that, your Excellency; while I was in his house he appeared to me to be a very good man."\*

The examination closed here, and I was returned to the prison; guarded by the same escort, and was immediately put in my cell.

The next morning the turnkey gave me a loaf of bread, which he said one of my friends had brought, and stated that he would call again at three o'clock in the afternoon to know if I wanted anything else.

I bent the loaf slightly and perceived in the centre two incisions, that had evidently been cut in it. My heart leaped within me with joy. I found the incisions were two sides of a plug, which had been cut out of the loaf; the inside scooped out, and the plug replaced and fastened with two thin wooden pegs, so cleverly, that it was impossible to discover it unless by the closest inspection. In the loaf I found a pencil, a small piece of blank paper, and, more precious than all, a brief note. My friend's note ran thus:

"Be of good cheer. Your friends are not inactive. I am in the habit of going to see the American Consul every day. He is informed of the facts of your case, and has twice demanded permission of the Captain General to see you. I will be here again at 3 o'clock; write to me; enclose your note in the loaf, and devise some means to return it—say you do not like it, and would prefer another loaf."

I read this over and over again. Every word was a source of unspeakable delight. The Consul, I was assured, knew I was forcibly dragged from New Orleans, and he had taken up my cause. I seized the blank paper, wrote a few words of fervent thanks to my friend, and entreated him to urge the Consul on, and tell him I was forced from New Orleans in the most villainous manner. My note written, I placed it in the loaf, carefully inserted the plug, and fastened with the same pegs. In the course of the afternoon the turnkey came and said my friend wished to know if I wanted anything else. I handed the loaf to the turnkey,—disdainfully, told him I did not want to eat such bread, and to return it to my friend and tell him so. In this way we exchanged one or two more notes, and the correspondence only ceased when the turnkey upbraided me

\* Rey was still under the impression, he says, that Morante was secretly leagued with his enemies, and avoided saying aught against him to the Captain General.

with being too fastidious, and I feared his suspicions were aroused. Then to save my friend, in case I was searched, I destroyed his communications, and wrote no more myself. Every note of my friend re-assured me more, and the last one contained the joyful news that I should be liberated in a few days.

About the 14th of August I was taken from my cell to the Audience Hall of the Prison, where I found myself in the presence of Gallano. I was again subjected to an examination by him, and a scribe recorded question and answer:

“Do you know where the property of Fernandez is; his houses, negroes, &c.—Do you know to whom he fraudulently transferred them?”

“I do not. I know nothing of his property.”

“Do you know where he deposited his money?”

“I do not.”

“Have you seen Fernandez spend money in New Orleans lavishly, so as to make people believe he was rich?

“No I did not.”

“Do you know whether Fernandez has any property in New Orleans?”

“All that I know he has there is a segar store.”

“What is that segar store worth?”

“I cannot tell; I am not an appraiser.”

“Did you, before you left this city, accompany a stout lady, when she went to a certain place, and get some money?”

“No.”

“Why do you deny accompanying the lady on that mission, when I know positively you was with her?”

“Let the lady be brought before me, and see if she will say so confronting me.”

I was asked to sign the paper, on which this examination was recorded and, there being nothing in it objectionable, I did so without hesitation. As I was about to be sent back to the cell I asked Gallano if I was still interdicted communication with my friends. He said I should remain in every respect as I had been. I was then remanded to my cell.

From that day to the 18th August was a perfect blank. I had no communication with anybody, not even the turnkey. About 8 o'clock in the morning, I was informed the Captain General again required my presence and was taken to the *Quinta*. A marked difference in my treatment was perceptible from that moment. The corporal and his guard, with fixed bayonets, did not present themselves, and myself and the keeper, who no longer treated me as a prisoner, but as a companion, were driven in a coach. This time I found the Captain General alone, and, imme-

diately after my presentation, the keeper was motioned to withdraw. With a bland salutation His Excellency opened the conversation :

“Well, Garcia, do you want your pardon now ?”

“If it pleases Your Excellency.”

“Then you are at liberty and may go where you please ; but are you not fearful somebody may harm you, if you go about the city.”

“No, Your Excellency. Why should I ? I have neither robbed nor killed any one.”

“Nevertheless you had better go back to prison for a time. It will be best for you to go to the *Castillo del Principe*, because you will have to come back here again at 3 o’clock.

“Your Excellency, I would rather return to the Real Carcel.”

“Very well, but you had better not walk about the streets ; you will be safer in jail.”

“Will I, Your Excellency, be safe so far as the action of the government and the police is concerned ?”

“I suppose you will, but I will not be answerable for what may happen to you, if you leave the prison.”

The Captain General now adjourned to the garden and I followed him. We found the keeper in waiting. The Captain General tapped him on the shoulder, and they returned to the hall, where they remained about ten minutes and then rejoined me. His Excellency told me I was to go back to prison as he wanted to see me again at 3 o’clock, whereupon he courteously bade me adieu, kissing his hand, and the keeper and myself rode back to the prison in the same carriage. On entering the prison the keeper informed me that I had the liberty of it, and added I should dine with him, an invitation I gladly accepted. Our dinner was a sumptuous one, and my host was in excellent humor. He congratulated me upon my liberation, extolled the justice of the Captain General, and iterated the prompt justice of his Excellency when he discovered the facts of my case. I heard all this with an air of profound credulity, but in reality found it much more agreeable to swallow my keeper’s excellent wine, and feeling it impossible to simulate gratitude to “His Excellency,” I ambushed my feelings to that distinguished personage, behind a sincere compliment to my companion upon the temptations of his table and the choiceness of his liquids.

Dinner over we went to the *Quinta*, where I found the Captain General, Gallano and the Notary together in the hall. His Excellency presented me successively three documents to sign. Handing me the first he desired me to read it, and see if I recognized it. On examination it I found it was a declaration purporting to have been made by me in New Orleans, signed by the Spanish Consul, in his official capacity, and witnessed by

Llorente. I said, and truly, that I had never seen the document before to my knowledge. The next paper offered me was headed "List of persons guilty of wishing the annexation of the Island of Cuba" (*comprometidos a la anexacion de la Isla de Cuba.*) To this I found my true signature appended, and saw at once it was the paper I had been made to sign in New Orleans, by the Consul, Ayala and Llorente, and the words of the Consul, uttered with exultation, the moment he obtained my signature, flashed upon me: "This is what I wanted. The Americans have despoiled Mexico, and now they want to rob us of Cuba." The Captain General asked me if I had signed it? I replied that I had. He then asked me if I knew Ayala? to which I answered that my acquaintance with him was very slight. In view of the villainous part Ayala had played towards me, jointly with Llorente and the Consul, and supposing it highly probable that he was in correspondence with the Cuban authorities I deemed it prudent to conceal my knowledge of the man. The third document placed in my hands presented itself as a declaration made by me at the *Quinta de los Molinos*, in the presence of the Captain General, Gallano and the Notary. The object in producing these papers was to obtain my signature to the first and last, and my duplicate signature and rubric to the list of annexationists, against which I remonstrated, having merely glanced over them cursorily, and being refused permission to read them attentively. I remonstrated until the Captain General became highly excited; told me they were necessary to save the Spanish Consul (against whom, by the way, I had learned through the communications of my friends to me in prison, proceedings had been instituted for my abduction;) that he had no time for trifling, and intimated that my liberty, aye, perhaps my life depended upon acquiescence. Reflecting a few moments, I saw that if the object in obtaining my signature to the papers was to use them as evidence, for the Consul in New Orleans, they were wholly vitiated if my liberty followed, as I could falsify them with my own life. I therefore signed them.

"Now" said the Captain Général, "we are ready. You shall go on board to-day. I suppose you still want to go back to New Orleans?"

"I do, your Excellency."

"Then you will need a passport, and you will have to write a petition for it. Here is your pardon."\*

\*This pardon is now in Rey's possession, and reads as follows:  
EL CONDE DE ALCOV, Captain General of Cuba, etc. etc.

Don Juan Garcia, *el alcalde* of the royal prison of this city, having made several revelations of an interesting nature to the cause of her majesty, I have determined, making use of the extraordinary powers with which I am clothed, to grant to him the royal pardon, which he solicited through the Spanish consul in New Orleans, as far as concerns the cause, which is now being prosecuted against him in this capitol, owing to the escape, which was effected by Don Vicente Fernandez and Don Cirillo Villaverde, on the 31st March last, and, for the due execution of the same, I hereby attest this document.

ROYAL ARMS. { Signed and sealed in the Havana, 18th August, 1849.

EL CONDE DE ALCOV,  
CRISPEN XIMENEZ SANDOVAL.

I was handed my pardon, dismissed and taken back to the Real Carcel, where I wrote a petition for a passport, which the keeper informed me, I was to write as he would dictate, and I did so. I do not remember any peculiarity in the petition, and am of the belief it was written in the ordinary style. This done, the keeper drew my passport from his pocket and handed it to me, whereupon I was taken on board the American brig *Salvadora*, and the keeper took a receipt from the mate for me. On the way to the vessel he gave me four doubloons, without saying to whom I was indebted for the gratuity, and observed that it would supply me with some necessaries on my arrival at New Orleans. We parted without regrets. I was free of my tyrannical persecutors, and was once more beneath the American flag, with increased confidence in its power to command respect.

How changed was my condition? I was furnished with clean clothing, the first with the exception of the old shirt of the cook of the *Mary Ellen*, I had had since the eventful evening of the 5th of July! And what a luxury this was after being deprived of it for a month and thirteen days, the whole of which was spent on ship board, or in a filthy dungeon, in the warmest part of a tropical summer! I was no longer the football of the Captain General and his minions, to be kicked, wheedled or bullied as their temper or interest might dictate. I was in the hands of those who rejoiced at my deliverance, and who were proud of it as a national victory.

Humble as I was and felt myself, I was embarrassed with the friendly inquiries and multiplied attentions of the officers and crew. The captain insisted on my sleeping in his own berth that night, and armed himself and his steward with revolvers, giving the steward directions, at the same time, to be prepared, if any attempt should be made during the night to take me from the vessel. These precautions were taken by the captain, because excitement in the city, in relation to my affairs, ran high, and it was not impossible the government party, feeling its pride humbled so lowly, might be guilty of almost any outrage in their lust for revenge. No attempt of the kind, however, was made, and with the lights I have now before me, it is not, I think, too much to assume that the government was zealous in suppresssing the feeling which I was informed prevailed among its instruments. The captain, bidding me good night as he was about to return to the deck, more, I presume, in a spirit of fervent patriotism than because of friendship for me, of whom he knew but little, declared that no amount of money could induce him to forego the pleasure and satisfaction he enjoyed in taking me away from the Havana, in the face of all in it, and bringing me back to the United States.

I rose early in the morning refreshed with a comfortable night's rest, and elated by the revolution in my circumstances which had taken place within a few hours. On ascending the deck, the first object that met my eye on

the wharf was a crowd of military officers, of every grade, from a Colonel down. Their gesticulation and loud and earnest tones indicated that a fermentative subject was under discussion, and occasionally looking at me or the vessel, they would fiercely clutch the hilts of their swords; an effervescence which provoked a smile from all on board.

About 7 o'clock the American Consul came on board, accompanied by the same young man who addressed me from the boat, when the Consul visited me at quarantine. After asking me, through this young man, if I wished to return to New Orleans, my answer being, I need not say, an affirmative, he conversed with me several minutes, in relation to what he had done in my behalf, and I learned that the first letter I wrote to him was not received for several days after I had delivered it to the Captain of the Port, and not until after my second letter had been placed in his hands. Before departing the Consul introduced me to Dr. Gage, stating that I should be under his care until I arrived in New Orleans. Shortly after we set sail and arrived here on the 28th of August. Dr. Gage obtained a carriage, and we drove to the St. Charles Hotel, stopping on the way at the chocolate shop of Morante, who I met with cordiality, having been entirely disabused of my suspicions against him, by the Doctor, on the voyage, who related to me the reports in the newspapers of the active steps taken by Morante in my case, and his manly denunciations of those who violated his hospitality and executed their nefarious schemes beneath his roof, while visiting his domicil as friends. At the hotel a large crowd was gathered, and among those present I observed Ayala. Catching my eye he hurried towards me and extended his hand! Finding no response to this affection of friendship, he immediately withdrew, amid the laughter of several who seemed to understand the rebuke. From the hotel I was conducted to the office of an United States Commissioner, upon whose suggestion, acquiesced in by my friends, I went to the Parish Prison, where I now relate these facts.

# Compilation of the Testimony

BEFORE JUDGE BRIGHT AND UNITED STATES COMMISSIONER COHEN.

---

HAVING given Rey's narrative, we now proceed to a compilation of the evidence, in the preliminary investigation, before Judge Bright, and Commissioner Cohen, and before doing so will give a brief history of the manner in which the investigation was brought about.

A week, more or less, after Rey disappeared, Mr. José Morante published a card in *La Patria* newspaper, printed in New Orleans, declaring his belief that Rey had been forcibly abducted and sent to Havana. This card caused some excitement among the Spanish population, and particularly among those who preferred American to Spanish institutions. Morante's statement attracted the attention of Mr. John Maginnis, then (in the absence of the senior proprietor) having control of a New Orleans daily journal, who immediately set about enquiring into the facts, and satisfied himself of the abundance of evidence to show that Rey was forced on board a vessel for Havana, by the procuration of Carlos de España, the Spanish Consul. Mr. Maginnis openly denounced that functionary and his instruments and published a series of able articles, opening the public eye to the enormity of the outrage committed, arousing the patriotic indignation of the people, and emboldening those, who cognizant of the manner in which the abduction was effected, but timid to proclaim the guilt of one so influential and *respectable* as Don Carlos de España, to come forward and publicly impeach him.

The constituted authorities were vainly invoked to take the necessary steps for the punishment of the audacious offenders, but still, the consul "feeling the pressure of public opinion," sought to escape it first by submitting papers in his office, privately, to official dignitaries, but finding this mode of procedure—so inconsistent with our laws and institutions—exasperated the people it was intended to appease, he was at last constrained to deny publicly the accusations against him, and challenge his accusers to produce their evidence. This was done in a communication that appeared in the *Commercial Bulletin*, on the 20th July, signed by Mr. James Foulhouze, as attorney for the consul, in which it was declared Rey left New Orleans of his own free will.

The gauntlet thus thrown down was taken up by Mr. Cyprien Dufour, a young advocate, who displayed pre-eminent ability in the case. Mr. Perry S. Warfield, also a young member of the bar in New Orleans, was associated with Mr. Dufour in the prosecution, and distinguished himself by his acumen and extensive legal knowledge. It is due to these gentlemen to add that they were volunteers, without promise or prospect of pecuniary reward, in the cause of public justice, and urged by their feelings as American citizens, appeared at the forum as vindicators of the law, demanding the punishment due to a desecration of American soil.

On the very day Mr. Foulhouze's communication appeared in the *Bulletin*, the prosecution was based by Mr. Morante, who at the instance of Mr. Dufour made affidavit before Judge Bright, setting forth the sudden disappearance of Rey, and declaring a belief that he was absconded by Don Carlos de España, Fulgencio Llorente, Henry Marie, William Eagle and captain James McConnell, of the schooner *Mary Ellen*. The Consul, Marie and Eagle were arrested the same day. The police, after several days search, found Llorente concealed in the garret of the store of Puig, Mir & Co., Spanish gentlemen and friends of the consul, and Captain McConnell, arriving from Havana in ten or twelve days, surrendered himself a few hours after his arrival.

The investigation opened on the 28th July. Messrs. Foulhouze, Collins and Preaux appeared as counsel for the defence, and subsequently Mr. Larue, representing Captain McConnell, was associated with them. Mr. Logan Hunton, District Attorney for the United States, and Mr. M. M. Reynolds, District Attorney for the State, were present on the invitation of the court, extended on motion of counsel for the prosecution.

Don Carlos de España pleading his rights as a foreign consul, his case, at the suggestion of Mr. Hunton, was evoked to the federal tribunals, and United States Commissioner Cohen was called in to sit with Judge Bright. Mr. Reynolds opposed the evocation, claiming jurisdiction for the State over him.

but Judge Bright tacitly abandoned the alleged jurisdiction, by admitting the association of the United States Commissioner, and at the close of the inquest surrendered to the commissioner decretal power in relation to the consul. The court thus organized, the case proceeded, Mr. Dufour filing the following notice to the court and the defence, of the line the prosecution would follow, there being no statute either of the State or the United States providing punishment for the kidnapping or abduction of a white man:

“**THE STATE VS. CARLOS DE ESPANA, ET ALS.**—Hon. Geo. Y. Bright, Second Justice of the Peace, and M. M. Cohen, U. S. Commissioner.—The counsel for the prosecution respectfully inform the court, and hereby give notice to the defendants, that the facts and charges related in the prosecutor’s affidavit, constitute two distinct and separate offences, to-wit: Assault and battery, and false imprisonment, and these are indictable and punishable offences in the State of Louisiana.

That from the complexion of circumstances which have attended the violation of public law, as herein complained of, the present case is one of conspiracy for committing false imprisonment and assault, which has indeed and in fact, been done and effected.

And that all the defendants are principals in such violation of law, save and except Carlos de España, who is, and will be shown to be, an accessory before the fact.”

The examination was exceedingly prolix, occupying, together with the argument of counsel, fourteen sittings of the court, and did not terminate until the 13th of August, when judgment was rendered, and all the parties accused committed for trial.

The compilation which follows consists of extracts from the testimony, containing all the material points, on both sides—the examination of witnesses for the purpose of shaking their direct evidence, except where the object aimed at was effected; the large quantity of extraneous matter, and of matter impertinent to the issue, and the volume of evidence as to the identity of Rey and the man who was forced on board the Mary Ellen being cut off. The reports being thus divested of unimportant detail the evidence is contained in a comparatively brief space.

Before entering into the compilation, the reader will premise that it was admitted by the defence that the consul was privy to Rey’s leaving New Orleans on the Mary Ellen, and was in some measure accessory to his departure. This is acknowledged in the printed communication of Mr. Foulhonze, already referred to, from which the annexed extract is taken;

“Fernandez had promised Garcia to give him twelve thousand dollars when in New Orleans; and the poor devil hoped that all was not lost to him; but once here, Fernandez left him without a solitary cent, and started for Mexico.

“Garcia, finding himself thus destitute, and in the utter impossibility of repaying the hospitality which he had received, called on the Spanish consul to know whether he could crave his pardon and go back to Havana, offering at the same time to make his declaration about the robbery committed by Fernandez, and all other persons concerned in the same.

“The Spanish consul answered that he was ready to receive the declaration, but that he was not the proper authority to grant a pardon, and that he would write to the captain general at Havana, to ascertain whether the pardon could be granted in case he (Garcia) should make a declaration.

“On the 26th of June last, whilst waiting for the answer from Havana, Garcia made up his mind to come forth and declare before the consul all that he knew about the robbery.

“The consul received his declaration, and told him that he could do nothing for him until he received a special message from the captain general’s office; but the desired message having arrived on the next day, the twenty-seventh of the same month, the consul communicated it to Garcia; and on seeing that he could return home without running any risk, and with a regular passport, Garcia decided to leave for Havana.

“He was perfectly free the whole time, to the moment of his departure, and left of his own free accord, with his passport, and written assurance that he had no danger to run, as it fully appears, first by his declaration; second by the communication from the captain general’s office, and third, by the delivery of Garcia’s passport under the same.”

The reader will observe it is here intimated that the consul had obtained a pardon from the captain general for Rey, who, “seeing that he could return home without running any risk and with a regular passport, decided to leave for Havana.” Mr. Preaux, too, in an argument in favor of a continuance, or postponement of the investigation, until the officers and crew of the Mary Ellen should return to prove Rey went on board voluntarily, and until Rey’s own testimony could be had from Havana, said:

“They would show by Garcia’s own testimony, which would be before the American consul, in Havana, that no such crime as was alleged was ever committed; that the consul and all the accused were perfectly innocent. He would pledge his personal reputation that this would be shown; that *Garcia left this city of his own accord*; that he is now living in Havana, and *that he has been reinstated in his former position*. We will take him even beyond the jurisdiction of the Spanish Government; we will put him on board an American man-of-war, and there let him make his deposition before the American consul.”

Furthermore the defence offered as testimony the letter, Rey says he copied from the draft of Señor Sandoval; addressed to the consul by order of the captain general, and written on board the Andrew Ring under duress of threats. It will be perceived by this letter that the consul was even mindful of the delicate state of Rey’s health, and furnished him with physic when he was leaving. The fact that reports had reached Havana, when the letter was indited, of the consul being menaced with a prosecution, will account for the familiarity of Rey and the complimentary passage in which he politely requests the consul “to tell those folks and rogues” certain things:

HAVANA, July 26, 1849.

To Don Carlos de España, Consul of her Catholic Majesty:

MY DEAR SIR—I have arrived here in good health, and am in quarantine, which I shall soon leave, and then I will write to you more at length. For the present I am rather out of news. My departure was a hasty one, as you informed me but at the last hour, that I could effect it. I started of my own accord and free will, though I was a little unwell. The medicine you gave me before I embarked, proved good, and I felt perfectly well when at sea.

Please to tell those folks and rogues, that I came before you voluntarily, and that I embarked at my own accord on board the American schooner Mariana. We were twelve days in our journey. Do me the favor to answer this letter as soon as you receive it.

Your affectionate servant,

JUAN GARCIA

We now take up the statements of the witnesses examined in the preliminary investigation, placing the name of each witness at the head of his testimony:

JOSE MORANTE.

Resides on Frenchman street and has a chocolate manufactory at No. 52 St. Ann street.

Relate how you became acquainted with a certain man named Rey....Llorente spoke to me one night—requested me to let Rey come to my house.

Relate every thing concerning this introduction. How it happened....At my house in St. Ann street, I being in company with a man named Ayala—Llorente took me one side and asked me if I would be good enough to favor or assist a man—an unfortunate man in difficulty. He said this Rey was at a cigar store at the corner of Gravier and St. Charles streets, and was apprehensive that he was going to be poisoned. I then replied, that if Rey had committed no crime against the country, I was ready to receive him. Llorente and I then returned to where Mr. Ayala was, and the former, clapping his hand on my shoulder, said to Ayala, "Did I not tell you that we should meet with a good friend."

On what day did your introduction to Rey take place, and when did he come to the house?....On the 8th June last, Llorente brought Rey to my house.

From that day, how long did Rey remain with you?....Until the 5th July.

In the course of that time, was Rey sick or not?....Twice, while he was in my house. On the 10th June he fell sick the first time, and between the 24th and 26th of the same month, the second time.

Rey was apprehensive he was poisoned, and told me himself he feared they would poison him at "La Corrina." It was for this reason, he told me, he left there. He had no clothes at my house.

What took place between you and Llorente, on the day Ayala left for Havana?....Llorente came to my house about half past eight, at night, the day the brig P. Soule left for Havana. Llorente said to me that Ayala had gone to Havana, and asked Rey if he would not go on the wharf with him. Rey said two or three times that he would not. I then closed the door of my store. I told Rey that Ayala was going to the Havana, to put a rope round his (Rey's) neck. Llorente asked me why? I answered, that a few days previous, Ayala told me that he wanted Rey to go to Havana, to have him pardoned, and to be himself pardoned.

Did you ever see Rey since the 5th July?....No.

From that moment your suspicions being aroused, had you not a quarrel with Llorente next day?....On the night of 6th July, I called Llorente, at the Eagle Coffee House, at the corner Condé and St. Ann streets, to the entrance of the public square, (Place d'Armes.) I asked him where Rey was? He answered that he had been told at Mr. Fernandez's house, that Rey had gone, or was going to Vera Cruz or St. Thomas. I became angry, and told Llorente that if Ayala was here, I would slap both their faces, (Llorente's and Ayala's) for having taken an unknown person to my house—my house on Frenchman street. Llorente, pointing to a dirk or dagger, in his waist, said, this was the same dirk Ayala had when he went to my house. Llorente told me that the person whom he had taken to my house was a proper person; it was the Spanish consul, and if I went with him to the consul, the consul would satisfy me, and that the consul was much pleased with him.

Did you know the consul?....Not at that time. I had seen him once, when he was pointed out to me by Llorente.

Did not Rey tell you something about his physician?....Yes. On the day Ayala left for Havana, I asked Rey, at my house, what physician was that was Llorente and Ayala had brought to my house. Rey said "I will tell you the truth—the doctor these persons brought here, was Don Carlos de España."

WILLIAM YEOWARD.

I am employed by Mr. Joseph Fernandez, who keeps a cigar store called "La Corrina," the corner of St. Charles and Gravier streets. I knew Rey. He came to New Orleans with Vincente Fernandez, brother of Joseph Fernandez. From the time he came to this city, he resided with me, at the expense of Joseph Fernandez. He came and took lodgings with Joseph Fernandez, I think, about the latter part of April or early in May. He remained with me until about the beginning of June. When he left me I continued to see him at intervals. He continued to frequent Mr. Fernandez's shop. I asked him several times why he had left, and he told me he was afraid. After he left the house, I continued to minister to his wants whenever he applied for it. He never took his clothing from the store. While he was residing with Mr. Morante, he came to Mr. Fernandez's store whenever he wanted to change his clothes, and changed his clothes there. I caused his clothing to be washed whenever they wanted it—this was always done for account of Mr. Fernandez. His clothing is all in the store now. Rey expressed to me at one time a desire to go to Vera Cruz. In the latter part of June I took steps to procure a passage for him to go to Vera Cruz, upon his special request. He was to have gone on the 30th June, by the English steamer from Mobile. I asked the reason he did not go on the steamer, and he said he preferred going on the Titi that day week, as there was no certainty when the steamer would arrive at Mobile. This conversation took place on the 30th June. In this conversation he was urgent upon going to Vera Cruz; he manifested much anxiety to go. I went that morning with him to the office of John Alexander, 28 Common street, to engage a passage on the Titi, which was up for Vera Cruz. A passage was not taken at that time because they asked me \$10 and I had but \$30. I afterwards asked Captain Brown if he would try and get the passage for something less than \$40, as he was a friend of the captain of the Titi. Captain Brown said he would, and he told me afterwards that he had engaged a passage for \$35. It was the representa-

five of Mr. Fernandez, Mr. Luis Villate, who gave me the \$39 for the passage. I returned him the money after I had been at John Alexander's. The Titi was to sail for Vera Cruz on Saturday, the 7th of July. When he was about to sail on the Titi, in a conversation he and I had, he pulled a passport out of his pocket, and asked me if it would be good for the Titi, after it was taken out for the British steamer? I looked at it. It was signed by the Mexican consul. The name in the passport was Jimenez. I am not sure whether the first name was Juan or Francisco. I asked him how it came that his passport was in that name, as I had always understood his name was Rey. He told me he was afraid that if he gave his own name, a passport would not be given him. I have seen Ayala on one or two occasions with a knife or dirk by his side, with a netted sheath.

#### LOUIS VILLATE.

Corroborated the statement of Yeoward as to having given him money, by directions of José Fernandez, to pay for Rey's passage to Vera Cruz. Captain W. S. Brown also corroborated Yeoward's evidence in relation to the negotiation for Rey's passage on the Titi.

#### JAMES TRECASEZ.

Has been connected with the police of First Municipality for ten or twelve years, as day policeman; he is now an inspector in the custom-house, appointed by Mr. Peters. He recognizes the Spanish consul in court; had a conversation with him on 2d June; was sent for by the consul; went to his house, corner of St. Louis and Burgundy; I went in; the consul met me in his office, and took me up stairs, into his (the consul's) private office; he then told me to sit down, and informed me there was now in this city a man of the name of Rey, who was one of the keepers of the prison in Havana—that two persons were arrested in Havana, and kept in prison; that Rey was offered \$12,000 to let them escape from prison, which he was to receive when he arrived in New Orleans, and that he aided in their escape, came to New Orleans, and was left here without getting a cent. The consul then said that if I would undertake to arrest this man, and bring him on board of a vessel going to Havana, he (the consul) would pay me well. He did not state the amount.

Was there any person present but the consul and you?....No.

Did you ever say you had been offered \$500?....I said I thought that the consul would give \$500, at the least, from the conversation with him.

In your testimony, on Saturday, in relation to the conversation with the Spanish consul, you said you made no reply to his proposition to arrest Rey. Did you not make a suggestion to him?....Yes, I told him if he wanted the man sent back to Havana, the proper course would be to go before a magistrate, make an affidavit, have a warrant issued, and have him taken out of the country legally. He said, in reply, there was no treaty between the two countries for the extradition of prisoners, and he could not do it in that way.

#### J. F. SEIXSHSNAYDRE.

I am First Lieutenant of the police of the First Municipality. I know the Spanish consul. It was either at the latter end of May, or beginning of June, as far as my memory serves me, I was playing a game of dominos with two or three of my friends, at the coffee-house of Mr. Quadras, at the corner of St. Peter and Chartres streets, when Mr. Quadras stepped up to me and asked where Mr. Trecasez was. I told him I did not know where he was; that he was a night inspector of the customs. While we were talking together, the Spanish consul came up to the table where we were, and addressed the same question to me, in the presence of Mr. Quadras. I gave him the same answer. He then asked me if I would have the kindness to tell Mr. Trecasez that he wanted to see him. The next morning I met Mr. Trecasez, and told him of it. I did not see Mr. Trecasez for two or three days after I told him. He told me then he had seen the consul. He did not tell me what had happened between him and the consul.

#### JOSE CARENO.

Do you know Mr. Llorente?....Very well, and I would be very glad to have never known him.

Relate what occurred between you and Llorente in connection with Mr. Rey?....On the 26th or 27th—I think on the 26th June last, whilst I was making some correction in a pamphlet I now hold in my hand, at the house of Mr. Sollee, a printer, on Chartres street, between three and four o'clock that day, not being willing to go to the Third municipality to dinner, I went into a restaurant opposite the Place d'Armes. I met Llorente at the door of the restaurant, with two of his children. We ate together—Llorente, his two children, myself and another of our friends, and I paid a dollar. Llorente then took me aside, and made me a very degrading proposition—a proposition which humiliated me very much. Llorente told me that he was in a very unpleasant dilemma, because he had either to shoot himself or fulfil an engagement with the Spanish consul. He said, for the first, he had not enough of courage, and for the other, he wanted a friend. He continued that he knew me to be in indigent circumstances; that in this city of New Orleans the persons who were rich were those who committed base acts (*acciones bajas*); that there was in this city a man who had caused several prisoners of note to be released from confinement in Havana. He also told me that he (Llorente) was a very able man for an intrigue, and if I wanted to help him, we could take the man, who was then residing at Mr. Morant's, and sail with him to Havana, and for so doing we would be very well paid. Llorente further said he had secured for himself a very good situation, because Señor Don Carlos de España was a very good friend of Señor Myn, Minister of Finance in Spain; that I was born in Mexico at the time the Spanish Government owned Mexico—

*Mr. Dufour:* Come at once to what Llorente said to you?....He said if I were to become a Spanish subject, I would secure a good position and brilliant prospects. In reply I said I lived quietly in this city, under the American government, and I would not be an accomplice in carrying a man away from it, and thus violate the laws.

Did Llorente offer any specific amount?....He said a very fat sum.

From whom was the money to be drawn?....Llorente told me it was a respectable person, but did not tell me his name.

How long have you known Mr. Morante?....I have known him only since the affair of Rey has been spoken of.

Did you know Rey?....I did not.

Why did you not go to Mr. Morante's, and inform him of this infamous project you speak of?....Because I never thought a man could seriously entertain so infamous a design, or carry such a plot into execution. For this reason, and also my occupation, being at work the whole day, I did not go to Morante's.

## BERNARDO VINCENCE.

Do you recognize the Spanish consul in court?....I do.

Do you recognize Henry Marie?....I do. I know him well. (Laughter.)

Have you ever seen them together, and if so, state under what circumstances?....On the night of the 2d or 3d of this month, I saw them walking together about half-past ten o'clock. I was standing at the time in the gate of the Place d'Armes facing the cathedral, under the lamp, with two other gentlemen—captain Delvalle and Mr. Georgiani, a fruit merchant. The consul and Marie came towards us from the direction of St. Ann street, and passed down Royal street. They were walking arm in arm, and passed within a few inches of us. As they passed one of the company observed, "See the Spanish consul walking with Marie?"

Did you ever see them together on any occasion?....Never.

## MR. DABELSTEIN.

I am Mexican Vice Consul; Don Carlos de España called upon me some time ago, in the month of May, and gave me two names, Juan Garcia and Vicente Fernandez, requesting me to inform him when the parties called to ask for passports. The Spanish consul did not explain why he wished to know when those parties applied for passports. On the 29th June last I gave a passport for one Jimenez, who represented himself to be a Spanish subject, to go to Vera Cruz. It was per the British steamer.... The regulations between the Spanish and Mexican Governments do not require Spanish subjects, going to Mexico, to have passports from the Spanish Consul. The passport of the Mexican Consul only is required.

## JOSE VILLARUBIA.

I know Mr. Morante; I often go to his shop, almost every day, in the morning and in the afternoon. I was there on the eveing of the 5th July, with the clerk, Antonio Ricardo. Morante was not present. Rey was in the back room. I did not see him, and could not tell what he was doing. While I was in the shop, Llorente and Rey went to take a walk. This was between half-past six and seven o'clock. Rey had not returned when I left, at nine o'clock. The shop was closed as I left. Rey seemed to go voluntarily—I saw nothing to the contrary. A few days before this occurrence, I had a discussion with Llorente about his telling me that he could send rascals tied up (hombres picarros) to Havana. I replied that he was not a man to do it; that neither he nor the Governor of Louisiana could do it.

## ADOLPHE BLAJAM.

I know Mr. Llorente; he is in Court; I knew Mr. Rey. On the 5th July last, in going into Victor's restaurant, (near the Place d'Armes,) in company with a person now absent from the city, between five half past five o'clock in the evening, I saw fronting the street, Mr. Rey, and seated opposite him at the same table, Mr. Llorente. On leaving the restaurat after having taken our dinner, we left Llorente and Rey in the restaurat. I remarked I was astonished to see Rey in the restaurat; it was the first time I had seen him there. I was astonished because I knew he used to dine always at an adjoining restaurat, where Fernandez's employés used to bring him. In May last the Spanish Consul came to the house where I lived, and asked for me; he was answered that I was out; he asked the person to whom he spoke to request me to call at his (the consul's) house, as he wished to speak to me the next day. I went there accordingly the next day. The consul, knowing I was intimate with Fernandez, having seen him at my house, told me that as I was an intimate friend of Fernandez, to tell him not to go to Mexico, as a treaty providing for the extradition of prisoners, existed between Spain and Mexico, and he could be arrested there and sent back. I thanked the consul for his kindness to my friend. (Laughter.) From what the consul told me, I cautioned Fernandez not to go to Vera Cruz, supposing it was true that a treaty for extradition existed. It was on account of the public rumor in the city, Fernandez hastened his departure to Vera Cruz. The rumor was that he was going to be sent away by the consul.

## ANTONIO RICARDO.

Are you not employed at Mr. Morante's?....I am.

Do you recollect Rey, alias Garcia?....I do.

Do you recollect having seen him on the 5th of July last?....I do.

Where did Mr. Rey dine on that day?....He dined at Mr. Morante's chocolate shop, 52 St. Ann street, with me.

Was Morante absent from dinner?....He was absent the whole day.

At what hour did you dine?....That day we dined about five o'clock. We generally dined between four and six—there being no regular time between these two hours.

Was Rey in that shop before dinner?....Yes, he had been there since morning, and remained in the shop until he went out with Llorente.

Do you recollect having seen Mr. Villarubia that evening in your shop?....I do.

Do you recollect having seen Llorente come in and taking Rey away?....I do.

Was it before or after dinner Llorente took him away?....After dinner.

## JOSEPH RABELI.

Do you not keep a coffee house?....Yes.

Where?....Adjoining the large Cotton Press in the Third Municipality, on Levee street, between Ferdinand and the street below.

What did you see about your coffee house on the 5th July?....On that evening the Mary Ellen was lying at the wharf opposite my coffee house. I saw persons coming from on board two or three different times, to drink at the house. I cannot tell whether they were the crew or passengers. I had no bar-keeper, and had to keep inside the house all the time. That is all I know about it.

Did you see this man Garcia in your coffee house that evening?....My house is a public one, and I do not pay attention to persons coming in and out. I do not know whether I saw him there or not.

Do you know Garcia when you see him?....I do not.

Did you give any drugged liquor in your coffee house?....(Mr. Dufour—Of course he will say he didn't)—I give nothing but natural drinks.

Did you see a man there that night with green specks?....I think I did, but cannot swear to it.

Do you know Fulgencio Llorente?....No, sir, I don't know any of them.

## MR. ST. GERMAIN.

You are employed at Lavalette's counting house on Common street, are you not?....I am, sir.

Was there nothing said in your presence in regard to his taking passengers?....(Referring to a conversation with Captain McConnell, on the 3d July.)—Mr. Lallande asked him if he would not take passengers. He said no, he would not take a passenger for \$300.

JOHN ORTON.

I am an engineer. On the evening of the 5th of July, I was walking down the levee, about eight o'clock. I saw the schooner Ellen and Mary alongside the wharf. I knew the mate and captain many years, and went to see them off. I stayed there several minutes. During that time, the captain of the towboat asked the captain (McConnell) if he was ready. Captain McConnell replied he would be ready in a few minutes. He told the mate to get ready and stand by the lines. I bid them good night. With that, the mate went forward; Captain McConnell and I went on the wharf together. Whether Mr. John C. Smith, the shipping master, went on the wharf or not, I don't know; but I saw him. The cook and one of Smith's clerks were on the wharf. Smith took a little rope and made believe he was going to whip the cook for not coming on board. Captain McConnell said, "Smith, don't hurt him." Smith and I then turned to leave. As I turned round, I saw four men carrying a man. Two had hold of his legs, and two more his arms. One of them had his hat (the man's they were carrying) in his hand. One of them shouted out, "Captain McConnell, here is your steward." The captain made no answer. The man shouted out again, "Captain, here is your steward." Another shouted, "here is a passenger." The captain then said, "take him down in the cabin, and be careful you don't hurt him."

What sort of a hat was it?....I should judge it was a Panama; it was white or I could not have seen it. The men they were carrying had spectacles. Captain McConnell did not assist in carrying the man on board. He merely told the men to be careful not to hurt him, and put him in the cabin. The captain continued attending to his business. One of the men, who was with the four men, and was acting as shipping master, said "See what strange business we have, putting drunken sailors and stewards on board after they have got their money."

Can you point out that man in court?....The witness stood up and looking around some time, at last fixed his eyes on one of the prisoners. That is the man, said the witness, pointing to Henry Marie, one of the prisoners. I thought it very strange to see the man I had known for many years, and had never seen him any where but in coffee houses, at balls, and at courts, acting as shipping master, while the shipping master and his clerk were standing by saying nothing. The vessel was cast off immediately after the man was taken on board.

Did the man look like a steward?....He looked any thing but like a steward. (Laughter.)

What sort of a coat had he on?....He had on a black or dark dress coat. I should not have paid so much attention to him had he not been shipped by a boarding house man, or a shipping master.

By Commissioner Cullen:—Have you ever seen that man who made the observation, "See what trouble we have with drunken sailors," acting as shipping master?....Never. I have never seen him any where but about police courts, and where decent men ought not to be.

*Cross Examination:*—I was about ten feet from him when he made the remark, Captain McConnell was about eight feet from me. I was about twelve feet from the vessel. The night was pretty dark. I saw them lift the man across the railing into the schooner. The quarter deck was above the wharf. I'm not sure whether he was put over aft the main rigging, but I think he was. I did not see him after he was taken on board. There were several persons on the Levee, but the only ones I recognized were Captain McConnell, Mr. Smith, and the others I have mentioned. The man appeared to be perfectly dead. He was crumpled up, and I could not tell what bulk he was, or what his size. When I was going down the Levee, I heard a bell ring; I did not know from what tow that was, but as I came near the Mary Ellen, I heard the Da Soto's bell ring.

The night was so dark, how did you come to observe his spectacles?....Because I looked so (stooping) into his face, and I saw them, and that's the reason the man (Marie) made the remark to me I believe. (Laughter.)

Justice Bright:—Did the man you have pointed out here in court, (Marie) have his hand on the man?....No, sir; he had a stick in his hand, walking alongside of them. He came up with them. They were all together. It was when I stooped over to look at the man he observed me doing so and said what I have related. It was when he made the observation, I looked in his face and recognized him.

CHARLES ROGERS.

Please state what occurred on the evening of the 5th July....I was met by somebody and told to go to the coffee house and wait. That was the last coffee house this side of the lower cotton press.

By whom were you employed at that job?....By Mr. Eagle. (Witness identified him in court.)

What sort of job was that—what sort of business?....I was to wait at the coffee house, until a big, stont man came with another small man.\* Something was said about the small one being the man, but I didn't believe it, as I didn't think that was the sort of man. So Mr. Eagle came across to me and said that was the man.

By what name did they call him?....I did not hear.

Point out the men. [Witness pointed out Marie]—I know him. [Llorente was brought forward]—He looks very much like the other man.

What countryman was the man with the spectacles?....I don't know.

What language did he speak?....He did not speak at all.

Who treated him in that coffee house?....I did not take that much notice, but they all drank together. What occurred then?....One of the small gentlemen walked out the lower door; that is the man I take to be Llorente, and the other two walked out another door. The man who walked the lower door (Llorente) walked towards the lower cotton press. The two others went about ten steps farther up and crossed on to the Levee. Mr. William Eagle stood on the Levee. He called me and the other man who was employed. Two of them took hold of him, and took him towards the wood-work of the Levee, and Marie touched me on the back with a stick, and told me to go on, he knew all about it.

Did you catch hold of him on the banquette?....I did not catch hold of him until he was falling, when they had hold of his leg and arm.

Did he, or did he not resist?....Not at all.

\*Marie is a very stont man, about five feet nine or ten inches high; Llorente short and thick set, and Rey about five feet six or seven and comparatively slender—he must he *re*been much more so then than now, as he is in good health and has been for several month.

Did he say anything?.... He never spoke a word, sir.

Did he appear to be drunk?.... No sir, he stood mighty straight if he was drunk.

Who are the men who had hold of him?.... William Eagle and a man named John, who has gone to California.

Who was the fourth man?.... Was it the man who was brought up here a moment ago (Llorente)? No; he had walked down to the press.

*Commissioner Cohen* :—How did he fall; you say he was not drunk?.... Because they were lifting him off the ground, and the lift was sudden. He lost his hat. I picked it up and held it in my left hand while I helped to carry him with my other hand, which I put under his shoulder.

Where did you put him?.... On board the Schooner Mary Ellen, one wharf above the coffee house.

What did the Captain say when you brought him there?.... Said put him down in the cabin.

You mean Captain McConnell; do you recognize him in court?.... Yes sir.

How long after did the schooner leave the wharf?.... I don't believe it was more than half a minute.

What hour was that?.... I can't say exactly; it was between eight and ten in the night.

State when you was employed for this business?.... About half an hour before dark that day, by Mr. Eagle.

What did he tell you about the business he had to do?.... He said it was a stubborn man, (one of the crew I supposed) and he wanted me to help to put on board. He said it was a man who he supposed might be stubborn, or unwilling to go on board.

How much was you paid for that?.... I was paid six dollars the next day by Mr. Eagle.

Did Mr. Eagle tell you for whose account he was doing this?.... He told me a man met him on the Levee and asked him if he did not want to make a little money? He did not tell me how much he got himself.

How long had you been posted at that coffee house, waiting for these men?.... I suppose we (the man John and myself,) sat outside the coffee house about three quarters of an hour, waiting. Mr. Eagle was standing on the Levee waiting.

Where did you let go of the man?.... Right at the rail of the vessel.

What became of him then?.... Mr. Eagle and this man John passed him down into the cabin.

Did they return immediately to the wharf?.... Yes sir; and they had to jump pretty quick, too, because they (the crew) let go the farts of the vessel, and she swung off.

Did you remain on the wharf while they went down into the cabin?.... Yes.

Before these three men came, had not Mr. Eagle described Marie, the stout man?.... He told me the man we were to put on board would come in company with the stout man, and when he came I recognized him as Marie.

What made you suppose it couldn't be the man you was to take on board?.... Because he was not dressed like a sailor. He wore good clothes and spectacles.

Since this case has commenced, have you not received offers not to come up as a witness?.... Yes sir.

Who made the offer sir?.... Mr. Marie and Mr. Eagle.

How much was offered sir?.... They told me I could make \$300 or \$400.

From whom was the money to be got?.... They did not say.

Were Mr. Marie and Mr. Eagle together when they made the offer?.... No sir, they were not; each made the offer separately, at different places and different times.

Do you recollect who first made the offer?.... Mr. Eagle

Can you recollect the substance of what Mr. Eagle said to you when making the offer?.... He told me there were some people up town who told him to see me, and get me to say anything in their favor; they would give me two or three hundred dollars, and he would see I got the money.

Is that all?.... He wanted me to sign a piece of paper to satisfy the gentlemen that he had paid me the money.

Can you recollect the substance of what Mr. Marie said?.... I met him at the Place d'Armes with a young man, I was in company with. He walked down as far as Ursuline street. He then called me aside—I suppose because he did not want the young man to hear—and told me we all could make three or four hundred dollars apiece.

Did you ever understand from either of them—Mr. Marie or Mr. Eagle—who was to pay the money, or from whom it was to come?.... No sir.

*Justice Bright* :—You say the man was not drunk, why then did he need carrying?.... I suppose, sir, because he was not willing to walk.

Did he appear sick?.... No sir.

Did he struggle at all?.... No sir.

Did he appear to help himself, to use that phrase?.... No sir.

What appeared to you to be the matter with the man?.... Well, sir, I couldn't tell; he walked over the Levee as nice as any man.

Did any person speak to him while they were carrying him?.... No sir, nobody spoke.

When you carried him to the railing?.... Nobody spoke but the Captain and Mr. Smith, the shipping agent.

When you were about turning him over the railing, did he appear to try to help himself?.... No sir, there were persons there ready to carry him.

Like a bag of clothes?.... Yes sir.

*Commissioner Cohen* :—Was he gagged?.... No sir.

Was he weak?.... He was a small man.

How long from the time they lifted him up did it take to carry him on board?.... Not more than a few minutes.

What kind of hat was his?.... It was a small narrow brim, a Panama hat.

*Justice Bright* :—Did you form any opinion as to what countryman he was?.... No sir, I only had one glimpse at his face. That was in the coffee house.

Was he a white man?.... Yes sir.

Was his countenance pale or flush?.... I can't tell sir.

*Mr. Warfield* :—After the vessel shoved off, was anything said by Marie, Eagle, or any of the others, then?.... I spoke to Mr. Eagle and asked him if he was going up? He said no, and asked me if I wanted any money? I told him no—I would call at his house in the morning; and upon that they walked down towards the Lower Cotton Press.

Did you believe at the time, or do you believe now, this man was one of the crew of the vessel?.... No sir—I do not.

### EVIDENCE FOR THE DEFENCE.

J. F. LABORDE.

I am acquainted with Captain McConnell the last eight or ten years.

Did he invite you to go to Havana the last trip?.... He asked me frequently. I was sick the last trip, and could not go.

You knew he was going to Havana?.... Yes, sir, we sent letters by him.

*Cross examination.*—By whom are you employed?.... By my uncle, J. Y. Laborde.

What is the name of the firm?.... Laborde & Xiques.

Are you acquainted with a young man named Thos. J. Burke?.... I have known him intimately the last five or six years. We room together.

Have you not written on paper something in relation to this matter in hand?.... Yes, sir, I have.

[Witness was handed a paper.] Is that your handwriting?.... Every word of it is mine.

To whom did you address it?.... I addressed it to no one.

To whom did you give it?.... To Mr. Thomas Burke. He requested me to write it.

Will you read it?.... Yes, sir, I will. The following is a literal copy of the paper:

"The Agent paid Mc 200 doubloons or \$3400 to take him away—He was tied on board under the hatches. The object of his been taken there is not that of punishing Rey so much as to ferret out of him who were the parties who employed him to set the two prisoners for political causes free from the castle—Some of the most influential families in Havana having been implicated in buying off this turnkey.

"Last night a party of spaniards headed by a speaker went to the Consul, and it appears he showed them some letters and papers, scolding him from all blame—Some other Spaniards wanted and actually formed themselves into a Company to go and trash the Consul and then send him in the like manner to Havana. All Spaniards without exception are incensed against this consul—and they hail the Delta as having taken up the affair on hand—The paper will gain much respect and influence with the Spaniards here if it continue hitting the consul and bringing him to punishment."

Will you please to point out the "Mc" you allude to here?.... [Witness pointing to Captain McConnell.] Mr. McConnell I allude to, of course.

Who was the agent you specified here?.... I mentioned no name. I alluded to no agent—if you allow me I'll explain the whole.

*Mr. Cohen:* That is a very plain question, answer it?.... I alluded to no agent. I meant no agent. I intended it as a hoax, as a lie from beginning to end.

To whom did you allude when you speak of "him" in the passage where you say "to take him away?".... Well, I suppose I allude to Rey. I refer to him all through.

*Mr. Warfield:* We now file this document in evidence.

*Examination in chief resumed.*—Knowing Mr. Thomas Burke was employed as a sort of Printer's Devil in the Delta office, first gave me the idea of hoaxing the Delta. In a conversation I had with him that night, I said I had much of importance to say to him, but was afraid to say it. I said so in order that he might think I knew a great deal of this case, and that he would give me credit for it. On the day following Mr. Burke came to my store, and said he came from Mr. Maginnis of the Delta office, and wanted to know all the facts of the case. I first refused, so as to make him believe I really had something to communicate. But after begging me a good deal, I consented and wrote that paper. The first item of the 200 doubloons I heard in some bar room, or in some conversation, and the rest I made it all myself. I would have given a longer account—but I had no time that morning, and could not tell any more lies.

*Mr. Warfield:* What did you say, any more lies?.... Yes, sir, for I intended to give them a whole chapter of lies if I had time. That is all I know of the case.

*Mr. Warfield:* (The testimony being read by the clerk.) Insert there, that he would give a chapter of lies if he had had time.... *Witness:* Yes, and I would give them now.

*District Attorney Reynolds:* Not now sir, if you please, you are on oath.

*Mr. Warfield:* Have you not had several conversations with Mr. Burke since?.... Yes, sir, the last one to-day at one o'clock.

In reference to this document.... Yes, sir.

Are you still in the employ of Laborde & Xiques?.... Yes, sir.

Is not your uncle, Mr. Juan Ignacio Laborde, of the firm of Laborde & Xiques, the security of Don Carlos de España?.... I have seen it so stated in the newspapers, and would know his writing if I saw it on the bond.

*Mr. Warfield* called for the bail bond of the Consul, when

*Mr. Preux*, said, we admit that Mr. Juan Ignacio Laborde, the witness' uncle, is the security of the Spanish Consul in this case.

*Mr. Warfield:* Was this document written about the time the newspapers commenced speaking of the subject?.... It was written the day after the first article on the subject appeared in the Delta.

JOHN SMITH.

Are you a shipping master in this port?.... Yes.

Are you acquainted with Captain McConnell, of the schooner Mary Ellen?.... I am.

Did you ship his crew for the last voyage?—I did.

Were you with him on the afternoon and evening of the 5th July?.... I saw him that evening at his vessel. I went down to the vessel about 8 o'clock. Mr. McConnell and I went up to see Mr. Wall. I told him it was not usual for tugs to go away before 9 or 10 o'clock, and he would have time. He went down to Wall's store and sold him some coffee he had in the store, and came back again to the schooner. When he came back along-side the schooner, I asked the mate, if all hands were on board. He said my clerk had been there and gone after the cook. We waited for more than half an hour, during which time the steamboat bell rang several times, and hailed the schooner (the steamboat captain did) to ascertain if they were ready, several times. I asked Captain McConnell if he was all ready? He said yes, as soon as the cook would come he would shove off; that there was a passenger who had his passage engaged, but he could not wait for him. I saw the cook and two negroes carrying his baggage, and my clerk coming along at the head of the wharf. I ran up towards him and hurried him aboard. I sung out to the steamer we were all ready. Captain McConnell sung out to his men to sing the lines and let go. I was then bidding Captain McConnell good-bye—shook hands with him. He ran aboard the schooner. I turned round; looking up the wharf, I saw three or four men coming along, three in a row

—arm-in-arm. Somebody said “the schooner is off.” They picked him up by the legs and shoulders, passed me, and passed him over the rail. The rail was pretty nigh level with the wharf, below the wharf. I sung out to Captain McConnell, “There’s the passenger.” Capt. McConnell says, “Let him come aft.” “Let him go down in the cabin”—one or the other of these expressions. The schooner’s bows were then swung out, but her stern was still alongside the wharf. I saw a dark object, I believed was the same man trying to get on the quarter-deck, with something white in his hand, which I supposed was his hat. The schooner swung off then from the wharf, and I left to go home, in two or three minutes after.

Were these men walking towards the schooner when you first saw them?....Yes, sir. There were three men; one alongside with a stick in his hand.

How many took hold of the man to lift him over the rail?....I believe three or four men. One of them, I believe, was a black man. I believe I helped him myself over the rail. There were as many as four or five then alongside.

Were they hurrying to get him on board when you first saw them?....No, they were not until the schooner shoved off.

This lifting over the rail, sir, was it done for the purpose of lifting him on board?....Well, sir, I can’t say. He could get on board himself. It was very dark—a sober man might stumble overboard that night.

How far was he from the vessel when they took hold of him?....About forty or fifty feet I should say when they first took him up.

Did he seem to be desirous of getting on board himself?....I don’t know.

Did he make any resistance?....I did not see him make any resistance at all.

You saw him going aft did you not?....I saw what I thought the same object, the white hat, climbing up the poop.

Was not the vessel in the act of going at that moment?....Yes, sir.

*Mr. Hutton*—You say Captain McConnell went down to Mr. Wall’s and sold some coffee. Is that of your own knowledge?....I went with him, sir. We were absent about half an hour.

How far were the men when you first saw them?....They were about two hundred feet. The wharf was a short one. I was about going home; I was standing about half way down the wharf.

Did you stop where you were when you saw them?....No, I turned back with them.

Did you know any of the men?....I knew one. I knew him so well I was able to recognise him dark as it was. That was Charlie Rogers.

Did you see any one else you knew?....I saw Mr. Eagle after the man was put aboard.

Did you see Mr. Orton there?....I saw him when I put the cook on board, and afterwards on the Levee.

Did Captain McConnell make any other remark in relation to the passenger, except that he expected a passenger?....Yes, sir; he said the passenger he was to take was a friend of the Spanish Consul.

Who engaged the passage for this gentleman?....I don’t know; Capt. McConnell mentioned that the passenger had the passport of the Spanish Consul; and he would like him to go if he came down in time.

How long after you returned from Mr. Wall’s was it until the vessel left?....About half an hour.

Had you any reason to suspect who this passenger was?....No, I thought nothing of it until I saw the affair in the papers. I supposed he was a passenger late, and that his friends were with him, seeing him off.

Did you suppose Charlie Rogers was one of his friends?....I did not know.

Did you suppose so?....No, I did not.

How did you say they came up?....Three persons walking arm-in-arm, and one alongside.

No baggage brought along, was there?....I didn’t see any, sir.

You said it was very dark that night, and that you could only recognise a well known face near you—  
are you sure they had not hold of the man when you first saw them?—No, sir, they had not.

How far did you say you were from them?....About half way the wharf. The wharf is about two hundred feet long. I could see four persons there.

*Commissioner Cohen*—Do you know this man John, said to have gone to California?....No, sir.

*Mr. Hutton*—I don’t recollect distinctly how far it was you said from the vessel they took hold of the man?....The cry was made when they came upon the schooner to “cast off,” and they took hold of him and run; I run too, alongside. He stumbled on the way; they picked him up, and I don’t know but I helped them to carry him by catching him by the thigh.

A dispute here arose as to whether the witness said the man stumbled before they took hold of him or after. The defence thought he said “after.” The prosecution thought “before.” The Court was of the same opinion as the prosecution, and called upon the witness to say which was right.

The witness now said it was before they took hold of him.

*Cross-examined by Mr. Warfield*: How far was you from them when they took hold of him?....About a yard.

Did he say any thing then or on the way to the vessel?....No.

Did you hear anything said as they took him along?....When he got on board somebody said something about “what trouble we have with these drunken stewards.”

Did you see this man from the time he was launched on board the vessel so as to know he got aft?....I supposed it was him I saw climbing up the poop.

Could you see him after he got on board or not?....No. I suppose he fell on a spar or on his back-side. [Laughter.]

Well, did you see him after?....Yes, I saw him going up the poop. I supposed him to be the same man, because I saw the white hat.

Was there nothing said when he was launched on board by any body—by him or those who put him on board?....Not a word.

What made you suppose those who put him on board were his friends?....Well, I don’t know whether they were friends or foes. I supposed he was late, and they were friends helping him aboard.

You say you heard no words pass. When they got on board did you not hear any words, such as good bye, farewell, *adieu*, or *adios*?....Not a word.

You have spoken of a man with a stick—would you know him?....He was a stout man.

*Mr. Warfield*: Stand up there Mr. Marie. (Mr. Marie did so.) Is that the man?....He was the same size; he was a similar man.

Did you ship the steward and cook?....I shipped a cook and a cabin boy, who acts as steward.

Was the ship entirely cast off before the man was put on board?.... No; her stern lines were yet fast to the wharf.

Did Capt. McConnell ever mention the name of the passenger to you?.... He did not.

Did Capt. McConnell ever request you to put this passenger on your shipping articles as a sailor?.... No sir a few days before, he asked me, previous to making up the list, to leave room for a couple of poor passengers, who had no passports.

Did he not say that the Spanish Consul had some wish in regard to this matter?.... No; all he said was the night before the vessel sailed; he said this passenger was a friend of the Spanish Consul, and he would like him to come on board.

Did you, or did you not refuse to leave a margin for one or two poor passengers as a part of the crew?.... "I told him I would if I could get protections, but I had no spare protections," because a small vessel like that can only carry two hands without "protections," and the cabin-boy and steward had no "protections."

*Mr. Dufour:* Say if you have not stated to some person, one or two days after this occurrence, that you had seen a d—d rascal of a Spaniard put on board the *Mary Ellen*?.... No sir; I did not know whether he was Dutch, French, or Spanish. I might have said a thousand things like it, since this thing has been talked about. Some said I got a thousand doubloons, and I said I wished I could get it. I would put hundreds on board for it.

Have you not said so since the 5th July?.... I've said a good many things. I don't know.

The question is a pointed one—have you not stated since the 5th July that "you had seen a d—d rascal of a Spaniard put on board the *Mary Ellen*?.... Not that I remember.

#### CHAS. DUQUESNY.

Is the chancellor (Secretary) of the consul since January, 1847. First heard of Juan Garcia and Vicente Fernandez on the 16th of May last, when an *exerto* of one of the Judges of the Tribunal at Havana, was received by the consul in a letter from the captain general. The *exerto* was afterwards returned to Havana, when the information desired was obtained. The letter from the captain general, enclosing the *exerto*, reads thus, translated:

"I transmit you an *exerto* from the Alcalde Mayor, No. 4, touching the criminal case pending in relation to the escape of the prisoners, *V. Fernandez* and *Cirillo Villaverde*, through the connivance of one Juan Garcia, second jailer of the prison of this city; and in order that justice may have its course, please inform me what can be done concerning these delinquents, who have fled into that country."

The consul answered the *exerto* and this letter. The chancellor copied the original, written by the consul; the original was retained and the copy sent off. The original, translated, was as follows:

"I return to your Excellency the document, or *exerto*, that you sent me, for neither the nature of the offence, the condition of the individuals, nor the laws of the country, will allow me to send them away. Notwithstanding, I think that, with the means I have put in motion, I will be able to give some better information about the case you have charged me with, respecting the person who has favored the escape of the prisoners."

Steps were taken by the consul to obtain this information. Mr. Trescasez came to the office about the end of May. Mr. T. told the consul he was no longer in the police, and the consul answered; "I'm very sorry, for I want or am willing to have a watch upon two individuals who have arrived from Havana."

What next?.... Then he made one or two steps out of the office, and he went into the corridor, where, I believe, they remained for two or three minutes. Then the consul came in.

Did the consul return into the office with Mr. Trescasez?.... No, sir; he came alone.

How far is the street door from the door of the office?.... Perhaps six or seven steps.

Did they go up stairs?.... Not that I know, sir.

At the time, did they go up stairs?.... I was under the apprehension—under the feeling—that they were the whole time in the corridor.

At the time, did they go up stairs together, hold a conversation together, and return?.... I do not believe it. They had time to go up stairs and return, but not to hold a long conversation.

Do you think the consul would have had time, during that period, to hold the conversation in relation to Rey and Fernandez, which he had stated in his testimony?.... No.

The names of the individuals were not given to Mr. Trescasez.

If the names had been given, what would have been their names?.... Don Vicente Fernandez y Juan Garcia.

The Court thought this manner of questioning irregular.

Was there information in the office of any other names?.... No, sir.

Commissioner Cohen declared he could not understand the testimony. He did not understand how the witness could know "if the names had been given," what those would be.

I do not remember when I first saw Garcia. On his first visit I remember as well as can be remembered that one day a carriage stopped before the consul's house. A while after, a gentleman whom I had known by the name of Ayala, entered the office, and said to Don Carlos de Espana, "Garcia is in this port, and is anxious to see you." The consul appeared somewhat displeased. He went up stairs, and came down directly with his coat dressed. Both he and Ayala went into the carriage. In half an hour they returned in company with Llorente and Garcia. When they were in the office the consul said, "Señor Garcia, you have nothing to fear here; this is the office of her Catholic Majesty." "Here are the seals of office," he said, and he showed them to Garcia; then pointing to me, he said to Mr. Garcia, "This gentleman is my clerk." Then the consul, and the two persons who were with him, went up stairs into the parlor, where they remained for some time, after which time Mr. Ayala went away by himself, I believe—I don't know. He was followed some time after by Mr. Llorente and Garcia. That was all that occurred the first time.

I saw Garcia again on the 26th June, the day he made the declaration. He and Llorente came together. Both stood at the entrance of the office. They did not come in. The consul, who was in the office, went up stairs with them—went up stairs with these two gentlemen. Some time after they were up stairs, Mr. Llorente came down in the office and asked me for the seal of office, which I gave him. Half or three-quarters of an hour after, the consul himself came down with a paper in his hand, which he told me to copy, and so I did.

After Llorente and Garcia went out, the Consul brought down a document with his own signature to it,

and the signature of *Garcia* and *Llorente*, which I copied immediately, and the Consul told me he sent the original to Havana. The Consul told me two or three days after that he had sent the original off.

This document, purporting to be a declaration voluntarily made by *Rey*, of all he knew in relation to the escape of the prisoners, was offered in evidence by the defence, but after a lengthy argument was rejected, the signature of *Rey* not being proved. The decision of the Court was as follows:

"That there cannot be a copy without a pre-existing original.

"That the existence of any original is not proven, nor its absence accounted for, as the Consul's statement and certificate cannot make evidence for himself, nor for any of the co-accused, any more than one of the accused could be heard as a witness in this case, either for himself or for any other of the parties charged.

"That, though it has been agreed that *Rey*'s declaration be received, yet such declaration must first be proved to have been made by *Rey*, and that there is no proof of any original declaration by *Rey*, of which this is alleged to be the copy—

"That if there be an original, the Consul could have retained it, and can procure it. It is decided that this alleged copy of *Rey*'s declaration be not received as evidence in this case by the Court."

I saw *Garcia* a third time in the Consul's house, on the 3d or 4th July. I believe he was alone. I only saw him cross the corridor and go up stairs. I made out a passport for him.

The Consul came to me on the 4th of July, between 2 and 3 o'clock, and told me to make a passport for *Don Pedro Gruma y Romeo*. The witness was positive the name was *Don Pedro Gruma*, until *Mr. Collens* observed to him that it was *Pedro Murga y Romeo*. Witness then said he was mistaken—it was *Pedro Murga y Romeo*. Counsel for the prosecution objected to the defence prompting their witness.

*Mr. Collins* replied that the witness was evidently mistaken.

*Mr. Reynolds*: You make those mistakes quite too often.

*Witness*: I was mistaken, sir, and I told the truth.

*Com. Cohen*: Yes, sir; but you never correct those mistakes until you are reminded of them by the Court, or counsel for the defence correct them for you.

*Witness*: The books will be here directly, and they will show I told the truth.

*Mr. Reynolds*: Yes, let the books be brought.

*Mr. Foulhouze*: No, sir—never. We shall insist upon the immunity of the books.

To whom did you give that passport?....To the Consul.

Did you not know the Consul had directions to make out the passport in that name? Did you not see a letter instructing him?....He had instructions in a letter I saw from *Señor Sandoval*, Secretary of the Captain General of Cuba.

The letter from *Señor Sandoval* was submitted and placed on file. We give a translation, omitting a passage, relating to a civil suit pending against the Consul in New Orleans, in relation to a tobacco transaction:

HAVANA, June 27, 1849.

To *Señor Don Carlos de España*:

MY DEAR SIR AND ESTEEMED FRIEND: By yesterday's steamer I received your interesting letter, dated June 19th and 20th. I avail myself of the departure of the other steamer to answer it. The point at issue requires it, and there is not a moment to lose.

Should the man spoken of comply with what he has offered, and should you decide to let him come, it will be proper to give him a passport under a supposed name, and to write to me at the same time in order that we may know it as soon as he arrives, and take all proper measures accordingly.

In case he has not departed when you receive this letter, have a care to send him here as soon as possible, giving him a passport under the name of *Don Pedro Murga y Romeo*. I will be prepared from the very moment the vessel enters the mouth of the port, though the receiving of this letter may be deferred on account of obstacles in the post-office.

It is very important that the secret be kept—that all remain wholly concealed—that he accelerate his journey after having furnished you with all the information he can before his departure, and under the seal of secrecy. You must also advise him as to the conduct he will have to observe during the navigation, in order that he may remain unknown, and that his arrival here be not divulged.

I will thank you for a few numbers of that *Nueva Telegrafo*, which begins to speak. I am desirous to know his opinion. You may direct it to me under cover.

It is altogether false that the general has either sent, or thought of sending his resignation, in any way or manner. He is well and much engaged at work.

As you have written to me that our man will leave by one of the vessels which are soon to sail for here, I am on the watch for the first which shall arrive. It will be of a great use for us to obtain through this means some important information about the foolish designs of the traitors, and you will have rendered a great service.

At his arrival here he will proceed so that he will have nothing to fear, and in no way be discovered. The quarantine will not impede it. Very respectfully yours,

CRISPEN X. DE SANDOVAL.

Was not that passport made out in accordance with the direction of the letter?....It was, sir.

*Commissioner Cohen*: Have you any record of passports, in which evidence of the passport may be found?....We have a book of passports, which might be brought into court if they chose, and would show it.

*Mr. Warfield*: That is what we have already repeatedly asked.

*Commissioner Cohen*: The defence comes in with incomplete evidence; their chain is imperfect, but it is their right to leave it so as to complete it as they see fit.

Have you received at the Consulate any other papers in relation to this affair?....Yes, sir.

Will you please look at this package and state if you recognize it?....I do. It arrived here on Thursday, the 2d of the month, at 8 o'clock.

To whom was it addressed?....The Consul of Her Catholic Majesty.

Was it not opened in your presence?....It was, sir.

How many papers did it contain?....Three.

What were they?....A letter from the Captain General; a letter from *Mr. Sandoval*, the secretary of the Captain General, and a letter from *Juan Gareia* the jailor of Havana.

These letters were also filed. The one from Garcia was that he was made to copy on board the Andrew Ring, from Sandoval's draft. Here are the other two letters:

SECRETARIA POLITICA, Havana, July 26, 1849.

The Consul of Her C. M. at New Orleans:

I have received your confidential communication, dated June 27th, together with the annexed list, of which the individual mentioned by you is the bearer. I have also in hands the spontaneous declaration which was made before you, and in presence of one witness, by the ex-jailor in the Royal Jail here, and once a fugitive in your place.

I tell you that for your instruction, as the case may be. God bless you!

EL CONDE DE ALCOY.

HAVANA, July 27, 1849.

Sr. Don Carlos de España:

*My Dear Sir, and Esteemed Friend:* The individual, Juan Garcia has arrived, and is yet in quarantine, quite anxious, however, to leave it, as he made known from his arrival. He has had much care to inform his Excellency, in writing, and at large, that he ratifies all that he has declared before you in your Consulate; that he has declared it of his own free will, in order to obtain, by so doing, his pardon, and that his coming here was with the same view, and of his own accord.

He has also sent me the letter herein enclosed, begging of me to send it to you.

There is nothing new for the present. The cholera is going off, but the yellow fever begins. Very respectfully yours,

CRISPIN X. DE SANDOVAL.

*Cross-examined*—Two or three days intervened between Garcia's first and second visit, certainly not more than three days. He came the second time on the 26th June, and therefore his second visit was on or after the 23d June. When Ayala, the consul, Llorente and Rey returned after Ayala told the consul that Garcia arrived here, they came in the same carriage Ayala and the consul went away in. Both Ayala and Llorente were frequently at the consul's house. I do not know if Mr. Ayala bore letters for Havana from the consul. I put letters myself aboard the P. Soule from the consul. On the 26th June, when Llorente, Rey and the consul were up stairs, it was Llorente came down for the seals.

In your first examination, you said the consul addressing Mr. Garcia, said Mr. Garcia, you need not fear, you are in the office of the Spanish Consul. Did he appear to be afraid?....Yes, sir; he appeared to be anxious.

Did you not hear the consul tell Mr. Garcia, on the 26th, that he would send him to Havana the first opportunity?....No, sir; the first time, I heard him tell Mr. Garcia that he had recommended him to the captain general. I did not see Mr. Ayala on the 26th. He sailed for Havana on the evening of the 27th on the P. Soule.

Is not the consul now residing in the house of Puig Mir,\* in the absence of his family?....He dines

\* This, it will be remembered, was the house in which Llorente was found secreted, by the police. there very often, and I find him there whenever I want him; but I don't know if he resides there, because I do not sleep in the house. The consul told me he could be found there if he was wanted.

The *exerto* was received the 16th May, and answered the 1st June—was it before or after the answer Mr. Trescasez was at the house?....I think before.

Don't you know, now, that both Trescasez and the consul went up stairs?....No, sir, I'm sure they did not.

You are sure?....That is my impression.

We do not want your impression; we want what you know, sir. You say they did not go up stairs?....No, sir.

Was Mr. Trescasez at the house ever before?....He was, more than six months before.

*Commissioner Cohen* :—If they had gone up stairs, are you sure they could not have gone unknown to you, sir?....No, sir, I'm not sure; that was my impression.

*Cross-examination resumed*—Did Mr. Garcia, on his last visit, on the 3d or 4th of July, come to the office alone?....Yes, sir; I saw him pass the office.

He did not ask whether the consul was up stairs or not?....No, sir; he passed through the corridor without saying anything. I was walking up and down my office.

Didn't look at you?....He did not.

Was he in the corridor, or was he turning the door?....In the corridor.

The consul has told me he has written some private letters to those who sent the *exerto*, asking the pardon of Rey. I think he told me so in the beginning of June, some days after he returned the *exerto*. The letter concerning the passport was received on the 2d or 3d of July. I do not know when an answer was sent. I did not copy it. The consul himself makes the *reservada* (copies of private letters,) and he made a *reservada* of that letter. Captain McConnell goes to the office every time he has a vessel to dispatch. He was at the consul's house last, from 11 to 2 o'clock, on the 5th July. He came alone.

You were aware, when you were drawing out the passport for Garcia, in the name of Pedro Murgo y Romeo, that it was a false passport?....You may call it so.

That the name was fictitious?....Yes, sir.

The description corresponded to Juan Garcia?....As well as I can remember by the description given me by the consul. The consul had the goodness to tell me what I put, and told me all I did not know myself. He stood by my side while I was writing.

When did you write the passport?....On the 5th July, between two and three o'clock.

We next come to the testimony of the subordinate officers and the crew of the Mary Ellen. It is exceedingly voluminous, but of little consequence. None of them, except Coleman, the chief mate, would acknowledge they knew anything of the manner in which Rey was put aboard. Their testimony throughout, was looked upon with suspicion. When they were brought up to be examined, they were separated, on motion of the prosecution. The officer who had them in charge testified that while they were in the room, two of them were walking up and down, and one of them asked the other, "Were we to say we did, or did not, know his name?" The officer did not hear the reply. This shocking disclosure

of the horrid drill of subordination deprived their testimony of any weight whatever. Not one of them, according to their own statement, not even the first or second mate who ate with Rey at every meal, nor the steward, who served at the table, knew his name, or ever heard it mentioned by the captain, or anybody else. The second mate being asked how Rey was called by the steward, who was himself a Spaniard, to his meals, replied "*hombre* come to breakfast!"

Their testimony in relation to the passage is corroborative of that of Rey. He had the liberty of the vessel, they said; was on deck when the pilot took charge of the schooner, at the mouth of the river and was transferred to the Andrew Ring in the manner, he himself, relates. None of them saw any baggage brought on board with or for him, and the steward and officers said he had none. Coleman swore that Rey in company with another man, very like Llorente, was on board the schooner on the afternoon of the 5th July, about four or five o'clock, before she was moved to the Third Municipality, from the First Municipality and applied for a passage, to which, Coleman said, he replied: "He could receive no passengers; his orders were against it." Being asked by the court to render this into Spanish, the language in which he said the conversation took place, he was unable to do so, but said his reply was "*no quiero pasajero*" (I do not want a passenger.) This witness also declared that he entered the cabin a few minutes after the vessel left the wharf, and proceeded to sea, and found Captain Mc'Connell and Rey sitting opposite to each other at the table. Between them were some papers, one of which witness took up and found it to use his own language "a real Spanish passport" for one Pedro Romeo. This information, about the genuineness of the passport, was given without his being questioned on the point, and his "willingness" being observed by the court he was examined as to how he knew it to be a real Spanish passport, and it appeared he only glanced at the paper for a moment, saw the name of Pedro Romeo and the Spanish Coat of Arms, but did not see the signature, nor read any part of the paper. The "willingness" of Coleman and his capital memory were subjects of frequent comment not only with counsel, but also with the court, during and subsequent to his examination. This is the man Rey charges with preventing him from jumping ashore. His testimony went to show that Rey went on board the schooner, arm and arm, with two friends. The steward was on board the whole afternoon, and during the time the vessel was at the lower wharf. He, therefore, could not be the "drunken steward" spoken of.

JOHN RICHARDSON.

Is a pilot at the Belize. Took the Mary Ellen out over the bar on the morning of the 6th July. Was on board about an hour and a half. My boat was part of the time alongside, part astern. I saw two persons, I took to be passengers. [Witness here described one of them, which description answers in general to that of Rey.] I noticed him (Rey) particularly. This passenger, while I was on board, was part of the time on deck. The captain invited me down to breakfast. I told him I could not go, and then the passengers went down with the captain. Both passengers went down to breakfast. After I got the vessel out to sea, I went down myself to get my orders. I saw all the three then at breakfast.

Did you notice anything of constraint of liberty?.... He (Rey) did not appear to be concerned more than any body else. He appeared to be very observing.

JOHN COOK.

Resides at the corner of Ferdinand and Levee streets. Was on the wharf when the Mary Ellen left. Being in the Cotton Press coffee house, I called for something to drink, and while I was drinking, I believe three or four men came in at the time. Well, there was one of the men that was drinking appeared to have a great deal of talk. He appeared to be anxious, and was swinging his arms, and was going on that way.

Did he have specs on?.... I think he did—indeed I'm positive he did. He had a piece of money in his hand, I think it was a quarter of a dollar, and he put it down to pay for the drink. After I drank I went over on the Levee by the Mary Ellen. There was word passed to Captain Mc'Connell, from the steam-boat, "if he was ready?" Captain Mc'Connell said he was waiting for a passenger, and that he was ready, or would be ready to shove off. About the time he spoke some one answered the passenger was coming. Well, some one on board the schooner, I don't know who, said if he don't be quick he'll lose his passage—I'm going to let go—I can't wait no longer, and for to help him, or he would loose his passage. Then I saw three or four or five men—three or four with him—the night was dark and I couldn't tell exactly, helping him—they took hold of him and they helped him on board.

Describe how that was done?.... They took hold of him and lifted him on board, and I suppose—

Mr. Cohen: Don't tell us what you suppose?.... Well, sir, they were putting him aboard as I've seen hundreds of others before.

Commissioner Cohen: Well, don't tell us what you saw before, but what you saw then?.... They passed him aboard. I saw him after, standing on the deck with his hat in his hand, making motions with it. I saw him trying to get on the top of the cabin; and then they let the vessel go. I did not hear anybody speak. I recognized among those who were helping him, Mr. Smith, Charlie Rogers, and two others I did not know. The party was about 20 feet from the vessel when I first saw them.

Mr. Huxton: Did they lift him up, or in what position was he?.... They were walking up towards the vessel, and he was walking with them, until the word was given to pass him aboard.

And how did they pass him aboard?.... They lifted him up.

Did he step over, or did they throw him over?.... There was no throwing over about it; his feet were put on the rail, and he stepped on to some cargo on the deck.

Now, sir, will you tell us whether they took hold of him by the legs or arms?.... Some took him by the legs, some by the arms, and they lifted him bodily.

Cross-examination—Was not the man carried from the Levee, on the wharf, up to the schooner?.... No, sir.

Did not the captain sing out "put him in the cabin"?.... I didn't hear no such word. I heard him sing out "bring him aft." Some one said so; I don't know whether it was the captain or mate.

*Justice Bright* : Listen well to the question; make up your mind, and answer deliberately; don't change your answer after you have given it.... I saw Eagle on the wharf. I was speaking to him a minute or two before. He was about 20 feet from the man when he was picked up. He came up with the man, and followed as the others did to the edge of the wharf. When Eagle and I spoke we were about 6 or 7 feet from the vessel.

How did you know it was the captain that answered the steamboat?.... *I never said it was the captain; I said some body on board*; it might have been the captain or mate, or some body of that kind. What was said on board the steamboat?.... Some body on the towboat, I suppose it was, sung out, "captain, are you ready?"

Was that what was said?.... They said, "Captain M'Connell, are you ready?"

*Justice Bright* again enjoined upon the witness to be more particular and positive in his answers. No, more questions were put to him.

JOHN RING.

I am the runner of John C. Smith. I was on the wharf when the Mary Ellen went off. I first saw the passenger who was put on board about half past eight, on the levee close to the wharf. He was standing up to the best of my knowledge. I couldn't tell if he was speaking; he was too far off. I was standing about the centre of the wharf. There were three or four with him. Next thing I saw was all of them coming towards the vessel, together.

Did he walk?.... Well, I couldn't say positively.

Did you distinguish him from the others?.... No, sir, I slewed round and went towards the vessel.

*Commissioner Cohen* :—Who do you mean by "him"?.... I mean the passenger.

Was there anything peculiar about his dress?.... No, sir, nothing peculiar.

*Direct Examination* :—You say you slewed round, what did you see next?.... I saw him aboard.

*Commissioner Cohen* :—Who do you mean by "him"?.... I mean the passenger.

How did you know he was a passenger?.... I heard them cry out.

*Direct Examination Resumed* :—Was it the same man you saw standing on the levee, you saw on the vessel?.... Yes, sir, I rather think so.

What did he do?.... He walked aft.

Didn't he go down in the cabin?.... I rather think he did.

*Commissioner Cohen* :—(Addressing the clerk)—Don't put that down. It is a leading question. We have had enough already of the witnesses "rather thinks so."

I saw Mr. Orton on the wharf that night. He was betwixt and between drunk and sober. It was about ten minutes after the passenger went on board, I saw him.

*Cross Examination* :—I had a conversation with you (Mr. Dufour) after Morante's affidavit was made about what I had seen.

Was not Captain Smith absent from the city at the time I had the conversation with you?.... Yes, sir.

This conversation took place in my office?.... Exactly.

Didn't you tell me, sir, that the man you now call a passenger, appeared to you to have been crowded forward into the schooner?.... I did, sir.

Didn't you tell me, sir, that this seemed to you "very strange"?.... Very likely.

Didn't you tell me, sir, that you asked the persons who were crowding the man, who he was, and that no answer was given?.... Yes.

Didn't you mention the name of Captain Smith as one of the number?.... I mentioned him particularly.

Amongst other things, didn't you ask if he was a passenger, and that no answer was given?.... Very likely.

Had you seen Mr. Orton before that night?.... He was a perfect stranger to me.

Did you converse with him on that evening?.... I did not.

How do you know the man to whom you allude is Mr. Orton?.... If I see a man's face once, that's enough; I can always know him after.

WILLIAM ROBINSON.—(A Second Municipality Policeman.)

I can't say I was a passenger on the Mary Ellen, the last trip. I was on the articles, with a fictitious name, and was entered as the captain's clerk. This fictitious name was put on for the purpose of getting a passport. I went on board on the 5th July, between one and two o'clock in the day, and during the afternoon was some times on board, and some times ashore. I don't know what time I went aboard the vessel, when she went down to the Third Municipality—it was some time in the evening. Never saw the Spanish passenger until he was a few feet from the vessel, being put aboard.

How was he put on board, or how did he come on board?.... He was carried on board.

Was he thrown on board, or was he carried after being aboard?.... No, sir. The cook had just come on board, and they appeared to be in a great hurry casting off the lines.

You say he was carried on board. How far was he carried beyond the rail?.... Was he carried any further, or was he set down on his feet?.... He was set down on his feet, sir.

How near the rail was he set on his feet?.... The rail and the wharf appeared to be near a level.

Well he was set on his feet just by the rail?.... Yes, sir.

Did any body cry out to the captain "there was a passenger," or any thing of that kind?.... Some persons cried out, I think, "hold on," I don't know who they were.

Well, what was said then?.... I didn't hear a word from none of them, sir.

Was he carried any further?.... Yes, sir, some body cried out, "take him into the cabin; put him below," and the vessel cast right off.

Was it "let him go down below," or "take him into the cabin"?.... They said let him go down below and he walked right down in the cabin; two of them, I think, shoving him by the shoulder, and they jumped ashore.

*Justice Bright* :—Did you say, sir, that they jumped ashore?.... Yes, sir.

*Direct Examination Resumed* :—Did they walk down to the cabin with him?.... No, sir.

How far was the cabin door from the place they put him on board?.... Not very far. I could not say.

Say how far?.... I could not say—perhaps three or four steps.

On the passage witness observed no constraint on Rey: he manifested no reluctance to leave the vessel, when he was sent on board the Andrew Ring; he shook hands both with the witness and the captain, and was on the passage very friendly with Captain M'Connell, frequently laughing and joking with him.

Never heard his name. He didn't talk English and witness couldn't talk Spanish.

When did you first hear that a passenger was to go on the *Mary Ellen*?.... Never heard it at all until I saw him coming aboard.

Were you on board the *Mary Ellen*, from three to four the evening she left?.... Well, I can't say; I went ashore often.

Where were you standing when this passenger was brought on board?.... I was standing on the quarter deck when they had been taking the cool on board.

Did you see this passenger before you went on board?.... No, sir.

Did you ever hear his name?.... No, sir.

Did you enquire?.... No, sir. He couldn't talk English and I couldn't talk Spanish.

I thought you might have enquired of the captain?.... No, sir.

JOSE RAMOND DE AYALA.\*

I know Llorente, and know Juan Garcia from the moment he and Vicente Fernandez, arrived in New Orleans, fugitives from the Havana jail. Garcia first lived at Mrs. Taylor's boarding house, on Canal street, next at *La Corrina*, and last at Morante's. He was known here by the name of Francisco Rey.

Had any you conversation with Garcia?.... On several occasions.

What did Garcia say to you about Fernandez in those conversations?.... The Fernandez that went to Mexico?.... Yes?.... Garcia complained bitterly of Mr. Fernandez going away, leaving him here abandoned in a strange country, when he (Garcia) had liberated him from ten years' imprisonment. Fernandez, he said, had promised him a large amount of money, ten or twelve thousand dollars, which he had not received. Fernandez, he said, told him he left here on account of a suit about a lottery ticket which was pending, and which required Garcia's presence in New Orleans, as Mr. Fernandez's brother had given a bond of \$500 for his appearance. He recommended him to his (Fernandez's) brother to send him over to Mexico to join him as soon as the suit was settled. The suit about lottery tickets was brought before Recorder Baldwin.†

It was Llorente brought Rey to Morantes.

He was fearful he would be murdered at the cigar store, *La Corrina*. There were many fugitives here from the Havana jail who knew him. Fernandez had suggested to him that he might be murdered, and had prohibited him from talking to any person. It was this which caused him to be frightened.

*Witness*: I wish to explain something I consider essential in relation to this matter.

Llorente consulted me on the propriety of moving Garcia from the cigar store, as he was so frightened he was afraid he would lose his senses. I told Llorente I thought it was very proper to do so, and approved the suggestion to take Garcia to Morante's.

What did Garcia say to you when he first spoke of returning to Havana?.... He said he wanted to see the Spanish Consul to get his pardon, and go back to Havana in that way.

What next?.... After being at Morante's he was taken sick.

What next?.... Mr. Llorens (this is the correct spelling of Llorente's name) called on me and told me Mr. Garcia was very sick, and I said I would like to go with him to visit Garcia's room, he told me "I am very sick, and I would like to see the Spanish Consul." He requested me to bring the Consul to him.

What next?.... I replied to Garcia, that it being such a rainy day, I thought it would be difficult to get the Consul to go to see him. Being urged by Garcia, repeatedly, I agreed to go for the Consul, and leaving Mr. Llorens with Garcia, I went to the Place d' Armes, and there took a carriage. I went in the carriage to the Spanish Consul's office. I told the Consul what Garcia said to me. The Consul replied that he could not go as Spanish Consul—in his official character—to see Garcia, for he was well acquainted with the laws of the country. As I had seen Garcia fretting so much, I said to the Consul, I did not call upon him as the Spanish Consul—as an officer of his government—but as a mere citizen, an individual. Upon which the Consul agreed to go with me in the carriage. We arrived at Mr. Morante's house, where we met Mr. Llorens with Mr. Garcia. Garcia wanted to relate to the Spanish Consul something about Fernandez going away and leaving him (Garcia.) Upon which the Spanish Consul said, "I did not come to see you in my official character as Consul, but as a mere individual, as a friend." Garcia then entreated the Consul to hear him. Upon which the Consul answered, "he could not unless it was at his own office." Garcia replied he was ready to go with the Consul. Then Mr. Llorens, the Consul, Garcia, and myself entered the carriage. After arriving at the Consul's house, I paid the driver two dollars and retired.

Did Garcia tell you, after, what occurred in the Consul's?.... No, sir; this happened between the 22nd and 24th of June, I believe. I was preparing to go to Havana, and left for that place on the 27th. I saw Garcia one or two days before I left, in a coffee house on St. Ann street, between Royal and Bourbon. Garcia told me he regretted very much he was not going with me. That although he was sick he was not afraid of going on board. He added that he expected to see me in Havana in a few days. (After a pause): I have a few words to add to the declaration of Garcia. On the afternoon we had been at the Consul's office, I met Garcia, and he said he felt very bad and was willing to take brandy, and ice cream, or anything. The witness was going to state Garcia's desires, as expressed in their interview, when he was interrupted by the Court, who deemed his story, touching this matter, irrelevant.

Did he say anything about having made a declaration?.... No, I did not make that statement to add anything to Garcia's declaration; I only stated to show that I accompanied Garcia to Morante's house.

Did he say anything to you, after you were at the consul's house, in relation to his declaration made before the consul?

*Mr. Dufour*: We object to that question—it is a leading one, and of course the witness will say yes. He shows a remarkable memory, and even recollects Garcia talking to him, months since, about brandy and ice cream that he wished. The witness, therefore, needs no prompting.

The Court directed the question to be put in this manner, and it was so put:

\*This man, of whom Rey has occasion to speak frequently, was a fugitive from justice from Havana, charged with the murder of a relative. He was in Mexico at the time our army invaded it, and it is said was employed as a spy by both Americans and Mexicans.

† The case referred to here was a dispute about a lottery ticket, brought before Recorder Baldwin. All the parties were discharged, when the examination was had. Rey had no concern in it.

Do you recollect Garcia talking to you at any other time in relation to what occurred at the consul's?....I had a great many conversations with him, but it is over a month since, and I do not recollect all he said, nor do I know what parts of the conversation are important.

Had you any conversation with Garcia in relation to the pardon?....I had no other conversation with Garcia on that subject, about what the consul said to him, except what I have related. I did not even call at the residence of Garcia. I called at the chocolate shop of Mr. Morante, but not at his dwelling.

Did Garcia give you any reason why he expected to meet you at Havana?....Yes, he said he expected to be pardoned by the Spanish Consul.

Have you seen Mr. Garcia write?....Often—I have seen him sign his name in particular very often.

What did you see him sign specially so often?....I saw him sign letters to persons in Havana, connected with the failure of Pedro Blanco & Co., asking for money. *I wrote the letters and he signed them.*

Did Garcia make any threats to those people in those letters?

Yes, sir, he said in all those letters, that if the persons to whom they were addressed did not send him the money Mr. Fernandez promised him, he would make a declaration before the Spanish Consul, exposing them, and would go to Havana himself.

[The witness was handed the letter Rey wrote from on board the Andrew Ring to the Spanish Consul, and he identified the signature. That was the object of the examination in relation to Rey's writing.]

*Cross-Examination:* You said that when you asked the consul to go to Garcia, he said he would not go in his official character, because he knew the laws of the country. Where did this conversation take place?....In the office of the consul, in the presence of his chancellor.

Before the consul went out to see Garcia, did he do anything in your presence?....The consul at first persisted in refusing to go. I then told him that Garcia seemed to be much worried. The consul put on his coat and went out.

You say Garcia told you, when he said he expected to meet you in Havana in a few days, that he expected to be pardoned by the consul. When did that conversation take place?....It was either on the 24th, 25th, or 26th (June). A few days before my departure.

Are you not well acquainted with the Spanish Consul?....I have known him by seeing him since August last. It is only since June last I have known him personally. Llorens introduced me on the 18th June last.

Are you not the person who sailed on the P. Soulé on the 27th June last?....Yes, I am. I took passport under the name of Jose Augustin Dias.

*Mr. Dufour:* Ah, ha! The witness has anticipated me. Tell the witness, Mr. Gomez that I do not wish more from him than that is not in answer to my questions.

Is that your name?....No, sir. That is the name I took to go to Havana.

Did not the consul, on that occasion give you a letter to go to Havana?....He did.

Did not the consul give you money to make that trip?....He did not.

Have you not said to anybody you got money from the consul to make that trip to Havana?....No, sir. If any body has said so, it is false.

Did you not return to this city on the P. Soulé, which arrived yesterday?....Yes.

Where did you remain while the P. Soulé was in the port of Havana?....While the P. Soulé was in quarantine, I remained on board. That was eighteen days. On the 22d July, I went ashore.

Where did you remain while ashore?....I desire to make some explanation before I answer.

*Mr. Dufour:* Never mind your explanations....I stayed in a house.

*Mr. Preaux:* Let the witness now explain.

*Commissioner Cohen:* On the cross examination, a witness must answer the question first, and give the explanation after.

*Mr. Collens:* He has given the answer—now let him give the explanation.

*Justice Bright:* I consider the answer an evasion of the question.

*Witness:* I arrived in Havana; I met my sister: having been absent sixteen years, the houses and the people I found entirely new; I found new buildings everywhere; I called upon my sister, brother-in-law and niece. After being about five minutes with them, a person who is unknown to me invited me to accompany him; took me to a house and lodged me in a small room, where everything was provided, bedding, boarding, &c. There I remained five days, when the same person who took me there came for me and took me on board the P. Soulé. I am related to the whole island of Cuba.

Did you not feel curious to know what house that was?....I did not. There is no use in asking that question—it is nonsensical.

Do you not know that house is the jail of Havana?....It is false that I have been in the jail of Havana. In passing by the Moro, I have seen the new jail of Havana—it is a very large and beautiful building.

Were you not actually confined in that house you were in?....I was warned not to go out, by the person who took me there; as it was my own interest to keep myself concealed I did so, and therefore did not go out, as I knew they were looking for me, and that I was much sought for.

Was that house a public house or a private house?....In my opinion, it was a private house.

Who was the person that cautioned you?....The same person that took me to the house and led me on board the vessel. Doctor Palmieri, who went with me on the P. Soulé to Havana, and resided with me two days at the house of Callejas, had been constantly insulting me on board the vessel, at quarantine, and as he heard me always called by my real name, "Ayala," he (the doctor) stated in Havana that it was not Jose Augustin Dias, who came on the vessel; it was Jose Ramon Ayala. When I went to my brother-in-law's house my sister said to me—

*Mr. Dufour:* We object to any such relation. If it is allowed, we shall never come to a conclusion. The witness' family, he says, covers the whole island of Cuba, and if he is allowed to go on relating his conversations with this immense family, we shall never have an end of this investigation.

*Mr. Collens:* The gentleman appears to be anxious to know all about the witness. Why not let him go on.

*Mr. Dufour:* (With emphasis.) I know too much about him.

After some further conversation, the court decided that the witness, after answering a question, had a right, within reasonable limits, to give his explanations. The witness then went on; When I went to my brother-in-law's house, he said, "I will recommend you to a person who will advise you what to do. Be guided by his counsel. He will take you to a place and conceal you."

Do you know the name of that man?....I was told the name, but I do not remember it. I only saw him the day he took me to the house, and the day he took me from it to the vessel.

*Commissioner Cohen* : Do you understand English ?.... Yes sir, when it is spoken very slowly. Was not this man either a soldier or an officer of the army ?.... He was not dressed as a military man. He was dressed a citizen, and had nothing with him but a silver headed cane. He had no arms. Do you not know that no one but officers or policemen carry these silver-headed canes in Havana ?.... I do not know it, but it is a custom adopted since I left Havana, sixteen years ago. To my time the police officers were distinguished by silk tassels on their canes.

To whom was the letter the consul gave you addressed—was it to the captain-general ?.... No, sir.

To whom then ?.... To Senor Sandoval, (the captain-general's Secretary.)

Did not you give that letter to Senor Sandoval ?.... Two days after the arrival of the vessel, the Board of Health's boat came along side the vessel, and Dr. Orta, the Quarantine physician, gave me a note from Senor Sandoval, saying that—

*Mr. Hunton* : Have you got the note ?.... No, sir.

*Witness continued* : I received a note from Senor Sandoval, saying that I, under the name of Dias, was the bearer of a letter which he requested me to send, and I enclosed it with my answer to Senor Sandoval, and handed it to Dr. Orta.

*Mr. Hunton* : Did you see Senor Sandoval while in Havana ?.... I did not see him, and do not know him. Had you any correspondence with him ?.... None, except what I have mentioned. I had a conversation with an old acquaintance of mine from Vera Cruz, whom I met at the Place d'Armes—

*Mr. Hunton* : I do not want to know that. I only wanted to know if you had any conversation or correspondence with the authorities of Cuba ?.... I had not.

Was you aware before you left Havana that this investigation was going on ?.... The day I embarked on the P. Soule, I was informed by the man who put me on board, that the report was here (New Orleans) that Rey had been taken to Havana by force, and that there was a great fuss here about it.

*Com. Cohen* : When did you hear that ?.... I went on board on the night of the 27th, and I was told this on the morning of the 23th. Every body coming on board—all the passengers were talking about it. The witness, being about to retire, said: I have a great deal to say about Garcia, and when the Court thinks proper to call on me, I can be found at Senor Callejas.

*Commissioner Cohen* : Why, your name being Ayala, was your passport made out in the name of Dias ?.... I would not go in my own name, because I had a fatal encounter with a cousin of mine, on the road, and the prosecution was still pending against me.

Had you your passport from the consul or his chancellor ?.... From the consul himself.

Did the consul know your name was not Dias ?.... He knew my name was Ayala, but he gave me the passport because I wished to go to Havana, and in concealment, to endeavor, if I could, to obtain the benefit of the general amnesty lately declared by the Queen of Spain. I have about \$50,000 worth of property in Havana, and have two children there, one of whom was born after I left, and neither of whom I yet know.

The rebutting testimony of the prosecution now comes and closes the compilation.

THOMAS J. BURKE.

I have known J. M. Laborde five or six years; we have lodged together, slept together, and been on intimate terms. [The witness was handed the paper which Laborde furnished him for the Delta, and which Laborde swore he wrote as a hoax—"a lie from beginning to end."] Mr. Laborde gave me that the day after the first article, in relation to the case, appeared in the Delta, and four or five days before the Consul was arrested. The night before I obtained this paper, Mr. Laborde told me he had all the facts of the case written out for the Delta, but on account of the intimacy that existed between his uncle and the Spanish Consul, he had torn it up. The next morning I went to the Delta office, and told Mr. Maginnis of the conversation. He requested me to go and see Laborde, and then I got that document. Mr. Laborde wrote it in my presence, and, when he gave it to me, he said the Delta had already published all the facts of the case, and he had but very little to add.

Are you a "sort of printer's devil" about the Delta office ?.... I have never been employed in the office.

*Cross Examination*.—Mr. Maginnis is of the Delta office, is he not ?.... Yes, sir.

L. F. ARDREY.

I am a member of the Bar. I know John Cook, who has testified here, and have known him for several years. His reputation for truth and veracity, is of the very worst description. I would not believe him on oath, under any circumstances. His character is notorious in the Third Municipality, and part of the First.

W. H. WILDER.

I am a member of the Bar, and an Alderman of the Third Municipality. I know John Cook. His general reputation for truth and veracity is very bad. I would not believe him under oath.

*Cross Examination*.—I have heard speak against his character, Daniel Kennedy, late captain of the guard of the Third Municipality; Mr. Guirot; F. P. Nogues, secretary of the Recorder of the Third Municipality; John McCaffrey, lieutenant of the guard of the Third Municipality; Francis Siewerson, John Jones and Edward Meehan, late alderman of the Third Municipality; alderman Collins, Flanders; Mr. Bertrand, of the Third Municipality police, and numbers of others. I have heard them speak of him, from time to time, the last two or three years. I heard Mr. Flanders, when Cook was appointed inspector of election, say he would not sit beside such a man. And, on another occasion, Mr. Flanders said when Cook was arrested, that he was eternally up before the Court, he was a perfect nuisance, and was, constantly bothering the Municipality. I will remark for myself, added Mr. Wilder, that Cook is eternally in the hands of the police.

THOMAS McGOVERN.

*Mr. Dufour* : Before examining the witness any further, I will say, in justice to Captain Smith, who is now out of town, that he acknowledged to me after he had testified, that when he was being examined he forgot to mention all that Captain McConnell had said in his presence, on the evening of the 5th. It is to supply that omission we call on Mr. McGovern.

*Mr. Collens* : Why not produce Captain Smith himself; where is he ?

*Mr. Dufour* : I don't know, I presume the Spanish Consul can tell.

Relate what Captain Smith said in relation to what Captain McConnell said to him concerning Rey, on the evening of the 5th.

We had a conversation in a coffee-house on the corner of Chartres and St. Peters streets, one afternoon. After we had been speaking there sometime, Mr. Orton came up to us, and joined in the conversation. He asked Mr. Smith if he did not recollect what Captain McConnell said. Mr. Smith said yes. He asked him if he did not recollect that when Captain McConnell was hailed from the steamboat he replied that "he was ready, and could not wait any longer, and if the cook did not come soon, he would get the Spanish Consul's man to cook," to which Captain Smith said yes.

## CONCLUSION.

The reader has now before him Rey's statement, and the evidence taken in the preliminary investigation. At the outset, it was our purpose to review and compare them in detail, and show, in as brief space as we could, the striking coincidence of both, in every material point. After reading and re-reading the testimony before the Court, however, we have abandoned this design, feeling confident that no intelligent man can rise from a perusal of the complete chain of testimony there presented, without a conviction that one of the most flagrant outrages ever committed upon a nation, great and powerful as this Republic, has been perpetrated by the Captain General of Cuba, through the agency of Don Carlos de España. With the revelations of Rey himself, and with the declarations of Morante, Trescasez, Careño Dabelstein, Charlie Rogers, Orton and Yeoward, there is an array of facts, a weight of proof that crushes, and flattens out to transparency the corruption and subornation of the miscreant, whom unfaithful guardians of the law, abandoning the nation's honor, would usher from the Star Chamber with the phylacter of innocence on his brow, and threaten a prosecution of patriotic citizens, who indignantly tore from him the befeuded endorsement that would veil his guilt.

In the very opening correspondence between El Conde de Alcoy and Carlos de España, in relation to Villaverde, Fernandez and Rey, there is proof of evil designs upon those men. The Consul is requested to keep them under his *surveillanœ*. For what purpose? Whatever he might hope to do with Rey, he could have no expectations of inducing the return of the other two, for there could be no object in the inducement but punishment. This could not be done legally, because there is no treaty for the extradition of prisoners between Spain and the United States. How was it done? Villaverde was beyond the Consul's reach; he was in New York. Fernandez and Rey were in New Orleans. The Mexican Consul was requested to inform his brother Consul whenever they applied for passports. De España suggests to the intimate friend of Fernandez to advise him not to go to Mexico, because there Spanish authority could reach him. It was desirable to keep him in New Orleans; but he scents danger in this unexpected concern for his safety, and flies to the very country his magnanimous friend would have him avoid. Rey is now the only bird to ensnare.

Did Rey leave the country voluntarily? He is here; he says not. In two letters, written at different periods at the Havana quarantine, to the American Consul he says not. If he was returning voluntarily, with the promised pardon of the Captain General, intending to denounce the parties who aided Villaverde and Fernandez in their escape, why was he cast into a dungeon, and fed on red beans and rice instead of being reinstated in his former position?" Why was he denied communication with the American Consul? Why were his letters to General Campbell intercepted, and opened? Why was General Campbell denied communication with him in person? Certainly there was nothing to fear from a conversation between General Campbell and him, if he left New Orleans a free agent. He would, doubtless, have requested General Campbell, as he did Don Carlos de España, to "tell those folks and rogues" not to make such a fuss about nothing; to cease pestering the people any more with the "great farce," or the "humbug" of "abduction."

There was truly a strong smell of abduction in all this.

How was it in New Orleans? The Consul did not needlessly expose himself to Trescasez by proposing to him to arrest the man, and carry him on board a vessel for Havana, knowing there was no treaty for extradition. Lorente did not, without a motive, commit himself, when he aroused the indignation of Careño by proposing to him to purchase the patronage of Señor Mon, the "good friend" of the Consul, and "brilliant prospects," by doing an infamous deed. But neither Trescasez nor Careño were pliant. Men more ductile, less scrupulous, were sought, and found. The Consul himself was seen, a night or two before the kidnapping, walking with one of them, Marie, who Mr. Orton says he never saw in any place "where a decent man ought to be." Carlos de España indicted as a "gentleman," is seen walking arm in arm with this man, at half past ten at night, through the streets, and those who see them, astonished at the association, exclaim, "See, there is the Spanish Consul walking with Marie!"

They are all seen assembled at the wharf in the Third Municipality on the night of the 5th July. Marie is there, Eagle is there, and their employées, Charlie Rogers, and California John. There were others, too, willing "to lend a hand" to help on board a late passenger. Rey, too, led by Llorente into the midst of this crowd, all strangers to him, but very good and true friends, exceedingly apprehensive he may lose his passage, and willing to pay twelve or fourteen dollars to a couple of assistants, they not only put him on board, and in obedience to the orders of Captain McConnell, he was taken aft, and put in the cabin. The simpleton might have lost his passage, were he allowed to remain on deck! But they have

forgotten his baggage. Never mind, he is nothing but a drunken steward. What trouble those drunken stewards give us !

Was there no violence there that night? Could not a sober man, well able to walk or run, get on board a vessel, the bulwarks of which were as low as the wharf, if not lower? This was in July when the river was low. Could not that man, we ask, run on board the schooner quicker than four, five, or six men, seizing him by the legs, hips and shoulders, could bear him along, even if they did rid themselves easily and quickly of him by slinging him on the deck as they would a sack of salt? Oh no, the poor fellow might loose his passage! And Charlie Rogers was paid six or seven dollars for half an hour's time; California John was no doubt equally well paid, and Charlie might have earned three or four hundred more if he could only be oblivious. There is not a single man who stood on that wharf, and has given evidence, that does not testify that violence was used either on the wharf or on board. Rogers says he was paid for committing it; Orton saw it, saw them seize the man bodily a long distance from the vessel; Smith saw it; King turned his back on it; Robinson on the schooner saw two men thrust Rey into the cabin, which Rey himself says is the fact.

The abduction was proved before Rey returned. His presence now confirms what was said, and supplies an occasional link in the chain, whereby much that appeared mysterious and unaccountable is explained.

Mr. Robinson's testimony would imply the greatest cordiality between Capt. McConnell and Rey on the voyage. They laughed and joked together, he says. Perhaps they did, but Rey would scarcely have been prone to mirth, bearing in mind that Second Municipality writ of arrest Llorente harped so much on, had he known an officer of the Second Municipality police was his fellow passenger. He might have been the whole voyage as, the pilot says, he was going over the bay "very observing." An abducted man could scarcely become an absconding passenger going down the river, so long as the vessel was armed with legal authority. The Spanish Consul would not have slept very easy had he not provided for every contingency. It would be improper, in the absence of any proof, to suppose Mr. Robinson was connected with the affair. He found a true friend in Captain McConnell, who gave him his passage to and from Havana for \$20, after declaring to Mr. Lallande, in the presence of Mr. St. Germain, he would not take a passenger for \$300. Travelling for the benefit of his health, too, Mr. Robinson was fortunate in the selection of the voyage, for when he appeared on the witness stand a few days after his arrival, there was not a more healthy or robust looking man in Court.

But Ayala tells us Rey begged to be permitted to see the consul; did see him, and made the celebrated declaration of the 26th June; Duquesne tells us he saw Rey three times at the consul's house, the last time the day before he left, and that a passport was made out for him, under the fictitious name of Pedro Murga y Romeo; and Coleman the mate tells us he saw this passport, "a real Spanish" one lying between Captain McConnell and Rey, on the table, shortly after the Mary Ellen left. Coleman also tells us that Rey, with a man very like Llorente, applied for a passage between 3 and 4 o'clock on the afternoon of the 5th July. Mr. Ricardo says Rey did not leave Morante's chocolate shop until after 5 o'clock, and Rey and Llorente were seen eating in Victor's restaurant between 5 and half-past 5. So that is disposed of without any assistance from Rey. Now in regard to the passport. The first thing that strikes the reader is, that it is very singular a passport should be needed at all; and next, that it should be drawn up with a fictitious name, when the man was directly consigned to the captain general, and was to be taken possession of by him when he arrived. In passing we may say something here as to why Rey was not taken ashore the instant he arrived in the Havana harbor. Vessels from New Orleans were subjected to quarantine, in consequence of the cholera existing in that port. It is true the disease had disappeared as an epidemic, long before, but sporadic cases continued, and the bill of health of the Mary Ellen reported two or three cases in the Charity Hospital. El Conde de Alcoy or his *Asesor* or Notaries, could not therefore be very desirous of an interview with Rey until they were satisfied he brought no contagion. The quarantine was for twenty days, but Rey was taken ashore five or six days before, evidently as soon as the authorities were satisfied there was no danger to apprehend from contact with him, and when it became perilous to leave Rey in quarantine, for he might obtain another interview with the American Consul. It will be remembered the *Teniente Gobierno* observed to Rey, before he went to the *Quinta* the first time "They are afraid to leave you under the American flag," or words to that effect.

We return to the passport, and the evidence of Duquesne and Ayala. The improbity of Ayala is completely established, even without the aid of Rey's revelations by a fact which was brought to the attention of the court by Mr. Reynolds. Ayala says he went privately to Havana, by the connivance of the Spanish Consul, to endeavor in private to obtain the benefit of a general amnesty offered by the Queen of Spain; that he went to have wiped out the homicide of a kinsman. This is the way in which he endeavors to account for the mystery that surrounds him in his peregrination in Havana. When he said so, on his oath, he declared that which was not true. He left New Orleans on the 27th June. The em-

nesty was not promulgated in Madrid until the 8th of June—only nineteen days before—and was not published, nor its existence known in New Orleans until the 8th of July—twelve days after Ayala left when it appeared for the first time in New Orleans, in *La Patria* newspaper. So much for his object in going to Havana.

Now for the passport. Would it not be strange if Mr. Duquesne, with his superactive memory never wrote out that passport? It would be singular, too, if the veracious Coleman, with the extraordinary perfection of his system of pneumonics, was proved to be mistaken; if it was proved that he never saw that passport. Astounding as all this is, it was mathematically demonstrated by Mr. Dufour, by the very evidence for the defence that that passport was ordered for Ayala.

The first time we see this passport mentioned, is in the letter of Sandoval to the consul, dated at Havana on the 26th June. The letter opens:

“By yesterday's steamer I received your interesting *letter of the 19th and 20th June*. I avail myself of the departure of the steamer to answer it. The point at issue requires it, and there is not a moment to lose.

“Should the man spoken of comply with what he has offered, and should you decide to let him come, it will be proper to give him a passport under a supposed name, and write to me at the same time, in order that we may know it as soon as he arrives, and take all proper measures accordingly.

“In case he has not departed when you receive this letter, have a care to send him here as soon as possible, giving him a passport under the name of *Don Pedro Murgo y Romeo*.”

When this letter was introduced, and was backed by the statements of Coleman and Duquesne, it was with the view of showing that Rey was the man referred to; it was to perpetrate a stupendous fraud upon justice and with a motion of the hand wiped off, as worthless, the mountain of evidence proving the abduction. Behold how easily the scheme is laid bare. Sandoval is answering a letter from the consul of the 19th and 20th June, and says, *should the man spoken of comply, &c., &c.* Had the consul ever seen Rey on the 20th June or before it? Had he had any negotiations with him on or before the 20th June? No. The consul, according to Duquesne and Ayala, never saw Rey until the 23d June. It was on that day, or between it and the 26th June, according to Duquesne, the consul was informed by Ayala that Rey was in New Orleans; it was on that day too, according to Ayala, he besought the consul to allow Rey an interview. Duquesne and Ayala both swear to the fact that the consul, on leaving the house to go with Ayala in the carriage, went up stairs and put on his coat. This proves that both referred to the same day; that they could not be mistaken; that the first time the consul ever saw Rey was on the 23d June, or between the 23d and 26th. Was then Rey the man who Sandoval says to the consul, “Should you decide to let him come it will be proper to give him a passport, &c.” Was Rey, on the 19th or 20th June, the man who was ready to go to Havana, and it depended upon the consul to say whether he would “let” him go or not? But Rey might have seen the consul before the 23d June, without the knowledge of Ayala or Duquesne. He might have been ready to go to Havana, and the consul might have been weighing in his mind whether it was better “let” him go or not. But what says the consul himself, through his Attorney, Mr. Fonhouze?

“On the twenty-sixth day of June last, whilst waiting for the answer from Havana, García made up his mind to come forth and declare before the consul all that he knew about the robbery.

“The consul received his declaration, and told him that he could do nothing for him until he received a special message from the captain-general's office; but the desired message having arrived on the next day, the 27th of the same month, the consul communicated it to García; and on seeing that he could return home without running any risk, and with a regular passport, García decided to leave for Havana.”

It was on the 26th June that Rey made up his mind to declare all he knew about the robbery. This is what the consul says, but Ayala says it was on the 23d June Rey made up his mind to do so, and Mr. Duquesne says he saw him at the consul's office on the 23d. Which shall we believe, Don Carlos de España or Ayala and Duquesne? Well that “special message” sent for by the consul, long, long before the 26th or the 23d June; that “special message,” sent for before Rey and the consul had ever exchanged a word, arrived on the 27th June; “the consul communicated it to Rey, and on seeing that he could return home without running any risk, and with a regular passport, Rey decided to leave for Havana.” Therefore it was on the 27th June the consul might say he would or would not “let” Rey go back; not on the 19th or 20th June.

Who was the man that could return home without running any risk? Who was the man who was ready to leave on the 19th or 20th June? Rey could not return home without running any risk, for he was thrown into prison the instant he landed—into a cell three and-a-half feet by twelve—was fed on red beans and rice, and was interdicted communication with anybody.

Who was the man, we ask again, that was ready on the 19th or 20th June? It was JOSE RAMON DE AYALA, who left on the P. Soulé on the 27th June; it was he who could return home without any danger. Read again the letter of the captain-general, dated the 26th July:

“SECRETARIA POLITICA, Havana, July 26, 1840.

“The Consul Her C. M., at New Orleans:

“I have received your confidential communication, dated June 27, together with the annexed list, of which the individual mentioned by you is the bearer. I have also in hands the spontaneous declaration

which was made before you and in presence of one witness, *by the ex-jailer in the Royal jail here, and once a fugitive in your place.* I tell you this for your instruction as the case may be. God bless you!

EL CONDE DE ALCOY."

Let us recur again to Sandoval's letter of the 27th June:

"As you have written to me that *our man* will leave by one of the vessels which are soon to sail for here, I am *on the watch* for the first which shall arrive. It will be of a great use for us to obtain, through this means, some important information about the *foolish designs of the traitors*, and you will have rendered a great service. At his arrival here, *we will proceed so that he will have nothing to fear, and, in no way be discovered.*"

And again, in another part of the same letter:

"*I will be prepared, from the very moment* the vessel enters the mouth of the port, though the receiving of his letter may be deferred, on account of obstacles in the post-office."

Sandoval was "prepared, from the very moment the vessel entered the mouth of the port." Scarcely Ayala entered the harbor, when he received a letter from Sandoval, and sent to the worthy secretary the letter he bore for him. The Consul, or his defenders, could not be induced to produce the letter, to which the Captain General's communication above is a reply. Mr. Duquesne said it was a *reservada*, a private letter. He knew nothing of its contents. The Court, and both District Attorneys, importuned the defence to bring into Court the complete correspondence, and if they were innocent, remove all suspicion. "No," was the reply, "the Consul's archives are sacred," and they only brought in what they thought would suit their own purposes.

We will not go over that ridiculous stuff of Ayalés, about his not knowing where he went to, or who escorted him. It was to the *Castello die Principe* he went, and his guide, "with the silver-headed cane," was an officer of the police. That is the sort of cane police officers are required to carry in Havana. Sandoval, in his letter of the 27th June, promises: "At his arrival here *we will proceed so that he will have nothing to fear, and in no way be discovered.*" What had Ayala to fear? Why this secrecy? For a very plain reason. Ayala was an outlaw; a prosecution for murder was pending against him. The Captain General has not the power to pardon the crime of murder; his Mistress only has that power, and hence the necessity of fictitious name in his passport; hence the necessity of keeping his presence secret from the people of Havana.

What was that "annexed list" that was so important as to need a special messenger to bear it? What was the list presented to Rey, by the Captain General, and his signature demanded; that was the list of ANNEXATIONISTS. The discovery of Rey's abduction spoiled the scheme. The hope was that Rey, by constant solitary confinement, and threats of the *garrote* might be induced to acknowledge he had supplied that list. Then would Carlos de España wear that "Cross of Honor" he ambitioned; then would El Conde de Alcoy baton on the spoils of the forfeited estates of disloyal Creoles, though it were necessary to wade through blood to reach them. Some forty or fifty were actually arrested, but nothing could be extorted from Rey against them; the demand of the United States for the surrender of Rey, took off the witness, who was to be forced to swear against them, and they were liberated. Letters from several of those who were arrested are now in New Orleans. The writers pronounce the conduct of Rey infamous, without knowing how little he was instrumental in the persecutions they have suffered.

We close here, and lay before the reader, without comment, the vote of the Grand Jury of the United States for the Eastern District of Louisiana, upon the bill of indictment against Don Carlos de España, for assault and battery upon, and false imprisonment of Rey—all accessories to a misdemeanor being ad-dicted as principals.

*For Finding a "True Bill."*

H. R. W. HILL, Foreman—commission merchant, firm Hill, McLean & Co.

H. G. STETSON—Stationer, firm D. Felt & Co.

JOHN G. COCKS—cotton factor.

WILLIAM HENDERSON—China and Glassware merchant, firm Henderson & Gaines.

WILLIAM LAUGHLIN—commission merchant, firm Laughlin & Co.

JAMES D. DAMERON—carpet ware-rooms, firm Chittenden & Dameron,

ALPHONSE MILTENBERGER—commission merchant, firm A. Ledoux & Co.

HENRY HOPKINS—Hardware merchant.

ZALMON TAYLOR—Wholesale clothier, firm Taylor & Hadden.

HYPOLITE GALLY—commission merchant.

CHARLES GARDENER—cotton factor.

*For "Not a True Bill."*

J. U. LAVILLEBAUVRE—Formerly grocer, retired.

H. DUFILHO—Sugar factor.

JOSEPH LALLANDE—commission merchant.

L. E. FORSTALL—Note broker.

SAM HERMAN—Note broker.

A. A. BAUDOIN—Note broker.

CHARLES DE BLANC—commission merchant.

N. C. FOLGER—Wholesale and retail clothier.

JAMES ROBB—Banker, and proprietor of the Havana gas works.

LOUIS BERNIAUD—Note broker and dealer in Havana lottery tickets.

J. M. LAPEYRE—commission merchant, note discounter and Havana trader.

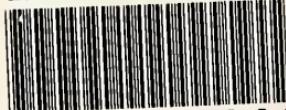
A. Vanbibber, one of the Jurors, was absent during the first day's examination, and did not vote, having been excused from voting at his own request. H. G. Schmidt, another member of the Jury, was also absent.







LIBRARY OF CONGRESS



0 015 995 884 A

